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A  
V I S I T  
TO THE  
PHILADELPHIA PRISON;

BEING AN

ACCURATE AND PARTICULAR ACCOUNT OF THE WISE AND HUMANE ADMINISTRATION ADOPTED IN EVERY PART OF THAT BUILDING;

CONTAINING ALSO

An Account of the Gradual Reformation, and Present Improved State,

OF THE

PENAL LAWS OF PENNSYLVANIA:

WITH

OBSERVATIONS

ON THE

IMPOLICY AND INJUSTICE

OF

CAPITAL PUNISHMENTS.

*In a Letter to a Friend.*

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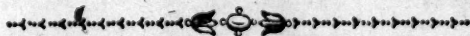
By ROBERT J. TURNBULL.

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“ Vitiorum semina—otium—labore exhauriendum.”

Lay then the axe to the root, and teach governments humanity. It is their sanguinary punishments which corrupt mankind.

RIGHTS OF MAN.



P H I L A D E L P H I A :

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## P R E F A C E.

**T**HE following sheets originally made their appearance in the Charleston Daily Gazette, some time in the month of February last; and are now republished with the addition of the notes, tables, and such alterations in various parts of the text, as have been suggested to the author on a further review of the subject.

The propriety of their coming forward in the style in which they now appear, will be readily conceived by the reader, on being acquainted that they were never designed for publication, even in the first instance. Communicated to a distant friend, merely as the result of a few leisure observations on an institution, for some time past the admiration of all strangers, the author had no desire (nor indeed expectation) that they should be perused, excepting by a few particular friends. The gentleman however to whom they were written, perhaps from a partiality to the author, considered them so far useful and entertaining as to have sent them to the Editors of the Gazette. The circumstance likewise of Governor Vanderhorst's having not long before offered his ideas on the same subject, to the legislature of South Carolina, probably furnished him with an additional reason, why they should not be withheld from his fellow citizens.

With respect to the anecdotal facts contained in the publication, relative to the interior management of the prison, they have all fallen under the immediate observation of the writer, while the tables and other information on the same head, have been extracted and collected either from the dockets or other records and documents of the prison, or from personal conversations with the inspectors. The whole however may be relied on as minutely accurate and authentic, as the manuscript was several weeks for perusal in the hands of two inspectors, to whose attention and care in pointing out the errors, the author begs leave to offer once more his sincere acknowledgements.

On the second subject embraced in the letter, that is, the *inefficacy of a sanguinary code*, it is sufficient to observe, that as mankind in general have long been the dupes and victims, to all the mischiefs of superstition and false systems of religion, so have they been more or less affected, from a blindly adopted policy in matters of jurisprudence. How far the following reasoning in the theory, and many evidences from practice, may establish this position, the reader must determine; with a recollection at the same time, that as the fame of a writer has been the most distant object of the author, all imperfections in style must be candidly overlooked—His aim has uniformly been to be as extensively useful to those around him, as situation and circumstances would admit; and should he, in this first emanation of a youthful pen, acquire but a partial success, the reflection of having contributed in some small degree to the benefit of the community of which he is a member, will prove a grateful reward.

*Philadelphia, 4th Aug. 1796.*

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A  
V I S I T  
T O T H E  
Philadelphia Prison, &c.

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DEAR SIR,

**A**MONG the various communications made by your governor to the legislature, in the early part of their late session, I was not a little pleased to observe, that an alteration of the penal code of the state, by mitigating the present punishments, was an object which he particularly pressed as commanding their attention. That every degree of humanity should be mingled in the organization of laws for the prevention of crimes, by annexing as mild penalties as possible to the transgression of them, is a truth no less consistent with the refined principles of reason

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and morality, than it accords with the true interests and wishes of that community whom the legislature is designed to represent. And to perceive the recommendation of the executive magistrate of a government, influenced by a sentiment,\* which, while it reflects honour on him as a philanthropist, will, if adopted, contribute so materially to the public happiness, must afford the most pleasing consolation to every feeling mind.

You are already, my dear friend, too well acquainted with my thoughts on the subject, to make it now necessary to assure you, of my personal satisfaction at this official proposal of a system, which has existed till lately in theory only, and whose beauties should have so long and so generally escaped the attention of the humane. While so many arts have been invented, and the principles of every science discovered by the ingenuity of men; while, combined with their intellectual faculties, they find stamped on them the grand moral attribute of fellow feeling; that so few should have exerted themselves, to put in practice some plan or other for reducing to a reasonable standard, those sanguinary codes of laws so prevalent throughout the globe, appears to me

\* Vide that part of Governor Vanderhorst's message to the South Carolina legislature, wherein he recommends a fort and other public works to be completed by the labour of criminals, on the island of marsh opposite the city of Charleston, called Shute's folly.

a circumstance not altogether accounted for. Surely nothing but a blind prejudice to customs, engendered in the depression of human happiness by ignorance, and the inexorable scourge of tyranny, could have given countenance to a policy like this. But in an age like the present, and in a country like our own; when burst from the chains which have long and cruelly bound it, the mind of man is once more accessible to the mild influence of reason and humanity, how strange that a rigour of the kind should exist. Thanks however to the virtue of Americans, that efforts towards the total abolition of it have not been wanting in this western hemisphere. Pennsylvania has pointed out the necessity of the measure. Directed by the unerring guidance of hitherto unexampled wisdom, she has furnished to the world an instance of good sense and virtue, which must redound to her honour, for ages yet in the womb of time, and when her sister states shall follow her footsteps, then and not till then, will the rising empire of America have completed its happiness on the basis of genuine liberty.

Premising thus much, and in further compliance with my promise of writing, I am necessarily induced to give you an account of the Philadelphia Prison. Notwithstanding a residence in

this place for some months, I had never the curiosity, till the last week, to visit this *WONDER* of the world. The expression is comprehensive but no less just; for, of all the Bridewells or penitentiary houses I ever read or heard of, I have met with none founded on similar principles, or which could in any manner boast of an administration, so extensively useful and humane.

Externally this prison presents itself as a very strong and secure building, constructed of stone, with a ground floor and two stories; and rather resembling an incomplete hollow parallelogram than any other form, with a north front on Walnut, and a south one on Prune street. The principal front on Walnut street measures one hundred and ninety feet in length, and forty feet in depth. The east and west sides or wings of the same depth, respectively, extend at right angles with the main front, ninety-five feet in a southern direction, and then join stone walls of twenty feet in height, running to the southeast and southwest corners. The west wing is on south sixth street. These three sides are appropriated for the confinement of criminals, vagrants, &c. and whose outward appearance does not much resemble a prison, but neat, handsome, and no inconsiderable ornament to the city.

Nearly contiguous to the east wing, is a brick edifice of two stories, raised upon arches, of about forty feet in length, and twenty-five feet in breadth, set apart for the purpose of solitary confinement. The south front on Prune street is partly the wall, and partly the debtors apartment, a stone building originally intended for a work-house, about forty-five feet in length, and fifty-five in depth. The whole of the buildings stand on a lot of two hundred feet by four hundred; one hundred feet of the south part of which, is divided off for the use of the debtors by a wall running east and west.

Having been previously prepared with a permit, procured by a friend from one of the Committee of Inspectors, to visit the prison, we delivered it at the door, when orders were immediately given to a turnkey, to conduct us through the different parts of it. We were first shewn through the grand entry, secured by an iron grated door about midway, and from thence (across a court or passage running from one end of the front to the other) directly into the yard of the prison. Conceive, my friend, the pleasant sensations which by turns took possession of our minds at the time, when I declare, that instead of having our eyes palled, as we might naturally expect, by the

gloomy appearance of the walls of a Jail-yard, we found ourselves amidst a small industrious community. At the southwest corner of the yard stood a wooden building, in which is established a manufactory of nails on an extensive plan. Here are manufactured cut nails of all descriptions, and particularly brads of an excellent quality; the whole by a method easy and expeditious. We were informed by the superintendant of this manufactory, that about five hundred weight of nails were daily produced by the labour of the criminals.

Next to the manufactory is a blacksmith's shop; while in other parts of the yard are erected small sheds, where the occupations of sawing marble, cutting stone, &c. were pursued in their respective branches. In short there was such a spirit of industry visible on every side, and such contentment pervaded the countenances of all, that it was with difficulty I divested myself of the idea, that these men *surely were not* convicts, but accustomed to labour from their infancy.

Previous to proceeding further with an account of the prison and its government, it will here be necessary to digress and remind you, that the criminal laws of Pennsylvania are established on so

firm a foundation of lenity, as to abrogate the punishment of death for every crime, except cool and deliberate murder. On the first emigration to, and settlement of the country by William Penn, the charter from king Charles the second strictly enjoined the establishment of the statute and common law of the mother country. This was ill relished by such a friend of the human race as Penn, and the principles of whose sect demanded with firmness, the compilation of a more mild, and rational code of criminal laws. In obedience therefore to those injunctions, and others dictated by a pure and enlightened mind, he engaged in the task, and produced a system, which confined the loss of life, as a punishment for deliberate murder only. This departure however, as might be expected, met with little or no encouragement in England. On the new code being transmitted to queen Anne for royal approbation (as was usually done with all laws, and indeed required by the charter) it met with her decided displeasure, and was consequently annulled. It was notwithstanding some short time after again enacted, and continued in force for upwards of thirty years, when a very long and warm dispute, on the same subject, having arisen between the governor of the colony and the throne, the latter succeeded, and insisted upon

and established the laws prescribed in the charter, in their fullest extent.

In this situation did affairs remain, until the many and repeated injuries, the colonies sustained from the king and ministry of Great Britain, made it necessary to dissolve at once, all bands of connection between the two countries, by that glorious instrument the declaration of independence. Then in the full possession of a liberty, the prospect of which had induced the original inhabitants of Pennsylvania to fly from persecution in Europe, the revival of the former penal code, which had remained in so long and obscure an oblivion, was immediately deemed an object of the first importance. As such, it engaged the attention not only of the Quakers, but of a considerable proportion of other classes of citizens. Several circumstances combined, to make the proposed alteration expedient, and among others, the small and valuable gift of the immortal Beccaria to the world, had its due influence and weight. For on the framing of the (then) new constitution of the state in 1776, the legislature were directed *to proceed as soon as might be, to the reformation of the penal laws, and to invent punishments less sanguinary, and better proportioned to the various degrees of criminality.* XThe ravages of a

ruinous and unnatural conflict, with the subsequent distress occasioned by it, in a great degree postponed the carrying into effect these humane intentions, till the year 1786, when the foundation of this long desired reform was at length laid by an act of the legislature. By this act a mitigation was so far accomplished, as to reserve the punishment of death for four crimes, namely; murder, rape, arson and treason, while all other offences were directed to be punished with whipping, imprisonment and hard labour. Unfortunately, however, for the friends of humanity, the new system of mildness was far from having the justice of a fair experiment, and was found by no means to embrace the views of its supporters. The number of convicts had, in some degree, diminished, but in so *very* trifling a proportion, as not to render it an object worthy of legislative attention, to continue lessening the then existing severity. A grand and important defect, though not generally observed, appeared too plain to some of the promoters of the plan, to inspire them with sanguine expectations of its success. It was the inefficacy of the punishments of public labour, mutilation and whipping, inasmuch as they destroyed an important end of punishment, that of the criminal's reformation. Too fatally was this experienced! The convicts who were

sentenced to the wheel-barrow, and chained and dispersed along the streets and roads, exhibited, from the difficulty of superintending them, the most shameful scenes of drunkenness, indelicacy and other excesses in vice. The inconveniencies and mischievous effects of the punishment of public labour, at length became so intolerable, that it was regarded, and with much justice, as a common nuisance. In consequence of which, complaints against the alteration of the ancient penal code became daily more universal, and so much so at one time, as to threaten almost immediate destruction to all the schemes of the humane.

The Quakers had been the original advocates, for the proscription of severity. The same motives which had uniformly distinguished the character of these people in their support of all charitable institutions, induced them still to keep the lead in a pursuit, equally noble and praiseworthy. Their spirit of perseverance then, when they had in contemplation the advancement of good order and humanity, was not to subside, even at this provoking trial of discouragement. The rapid growth and magnitude of the evil, served rather as a new incentive to awaken them more, and to convince them, that without indefatigable pains their important ends could never be accomplish-

ed. Necessity, which generally and bountifully gives a new tone and vigour to the genius, was not in this instance dilatory in the production of a remedy. Aided by other respectable and influential characters of the community, the Quakers formed themselves into a society *for alleviating the miseries of public prisons*, the object of which was, to inquire into the abuses of prisons, and public places of confinement, and to report them to the legislature, with a petition for redress; and also to examine the influence of confinement or imprisonment, on the morals of the persons who were the subjects of them. X

The exertions of the society, after considerable opposition, procured from the legislature an amendment to the penal code, by an act of the 5th of April, 1790, which abolished the former punishments, and established in lieu of them, *private labour, fine and imprisonment*.—This law, it may be said, was *forced* from the legislature; for nothing but their confidence in the individuals, who composed this association, could have persuaded them to risk a further experiment. Anticipating few or no good consequences, from the substitution of a mild discipline, instead of death, severity and irons, they thought it prudent, and took care to limit the existence of the law, for the

space of five years. The act, after laying down several general regulations for the government of prisons, entrusts in the hands of a board of inspectors, "the power of making, at their quarterly or other meetings, such further orders and regulations, for the purpose of carrying the act into execution, as should be approved by the mayor and recorder of the city." By a supplement to the act, passed in Sept. 1791, the same power is transferred from the mayor and recorder, to the mayor, two aldermen, and two of the judges of the supreme court, or two of the judges of the court of common pleas of Philadelphia county.

I hinted, that a considerable opposition had disputed the establishment of this mitigated mode of treatment. It existed for a length of time; and the most powerful proceeded, not so much from ignorance, prejudice, or want of benevolence (for its opposers were respectable and humane) as from the trifling prospect and hope, which a mistaken and too despicable opinion of persons guilty of offences had led many to have and entertain of its fortunate issue.

Among the services of several persons, who early formed an attachment to the principles of the society, those of the late attorney-general of

the United States, the worthy and much respected William Bradford, deceased, are sufficiently well known to merit the recollection and gratitude of his countrymen. Being at that time judge of the commonwealth of Pennsylvania, he had occasion to differ, on this point, with his brethren on the bench, who denied their consent from none but the purest and most patriotic motives; such as their tried knowledge of crimes and criminals had prompted them conscientiously to respect. On the first appearance of the favourable symptoms, which the triumph of their adversaries had effected in the government and conduct of the prisoners, they coincided, and afterwards contributed much to its maintenance.

In justice to other respectable persons, not of the Quaker persuasion, it may here be mentioned, that notwithstanding that sect were, in general, the principal supporters of every improvement on the new system, still the cause was always warmly espoused by other citizens. Nor can it be contradicted, that among the present number of them there are several whose humane labours have not been exceeded. To pass over the conduct of the enlightened Doctor Benjamin Rush, might properly be deemed an act of omission. Although the pressing duties of his profession

called for his humane assistance in other quarters, he was no less eager to appropriate, occasionally, a few leisure hours on the subject of a scheme, so pregnant with the future happiness of millions, and which simply required public spirit and perseverance to deliver to *mankind*. With this view he came forward at a very critical juncture, and published a small pamphlet, called "An Inquiry into the Effects of public Punishments, upon Criminals and Society;" in which, after displaying with a philosophic calmness, the greatest acquaintance with the springs of the human heart, he fully demonstrates their inutility, and mischievous tendency. A few years growth of the system which abolished them, has already established the truth of his principles.

Upon the whole, the promoters of this last grand work of philanthropy met with so much success in the experiment, and its operations produced so visible a change in the criminal dockets throughout the state, that the legislature, so far from suffering their intended temporary law to expire without renewal, extended their lenity still further; and by the memorable act of the 22d of April 1794, abolished the punishment of death, for every crime, excepting murder of the first degree. X Any kind of murder per-

petrated by means of poison, by lying in wait, or by any other kind of wilful, deliberate and premeditated killing, committed in the perpetration, or attempt to perpetrate, any arson, rape, robbery, or burglary, is declared to be murder of the first degree. Persons guilty of other offences are therefore now divided into two classes. Of the first class are all persons guilty of offences which, previous to the passing of the law, were punishable with death; and also those guilty of other heinous offences mentioned in the act. These undergo a punishment compounded of hard labour and solitary confinement, for a certain term of years. Those of the second class, are convicts condemned for offences less criminal, who are merely subjected to hard labour. As to the measure for each particular crime, or misdemeanor, it is principally discretionary with the judges of the court, before whom they are tried, under the restrictions laid down in the first of the subjoined tables.

With these prefatory observations on the nature, progress and gradual improvement of the criminal laws of Pennsylvania, I shall be more in order to proceed with my description of the prison. From viewing the yard, our curiosity naturally led us to examine the interior apartments of the building. We first went through the ground

floor, or front half-story, chiefly appropriated for kitchens, which were exceedingly clean. Some men were busily employed, in carrying plaister of Paris in lumps along the passage, to an apartment in the east end of this story, where it is ground by others, in a mill fixed for the purpose. There were several other rooms, but nothing material engaged our notice.

We next ascended the first whole story, with which there is no communication with the under, except by a flight of steps outside in the yard. At the back part of this as well as the other floors, there are long courts or passages, extending from one end of the front to the other, about the width of twelve feet. Along the passage here, are ranged eight apartments; three of which being occupied as the apartments of the jailer, and one made use of as the inspectors room, have no entrance to them within side of the iron grated door. The rest open into the passage, and are work-shops, with instruments and tools for carpenters, joiners, turners, shoemakers, weavers, and tailors. These different trades we saw carried on with all the industry imaginable. There were also persons in the court, employed in chipping logwood. The work-shops are of the dimensions of twenty feet by nineteen feet; neat, healthy and airy; perfectly secure from fire and

an escape, by being arched over with stone, and having double iron gratings to the windows. No communication with them can be effected by persons in the street.

The upper story contains the same number of rooms, ranged in like manner as the lower apartments; the first of which, at the west end, is set apart as an infirmary for the reception of sick prisoners, and the rest bed rooms. In each of the rooms are about one dozen beds with matresses, sheets and rugs; every prisoner being allowed a single bed. All these front stories are appropriated for none but male convicts.

The first story of the east wing contains five apartments, constructed in the same manner, in which are confined persons accused and committed for trial, who are not made to labour. In the second or upper story are the vagrants, and runaway servants. These persons are employed in beating hemp, picking moss, hair, wool or oakum. There is a court yard to this wing, measuring ninety by thirty-two feet.

We next visited the apartments of the women, in the west wing of the prison, on Sixth street. The ground floor of this wing was formerly di-

vided off into dungeons; but now are seldom, or never entered, unless to flow away wood, or any bulky material. In the first story are four rooms, ranged in the same manner as those of the east wing, appropriated for the use of the female convicts, besides another, used as a store-room for the articles manufactured in the house. The women perform their labour in the passage; they were engaged, some in spinning cotton and mop yarn, carding wool, picking cotton, sewing, and preparing flax and hemp; others in washing and mending. They have a court yard, of the same dimensions of the one belonging to the untried criminals, and male vagrants. In the upper story of this wing are confined female vagrants, and women of bad character, who are also kept at profitable employments.

You must admire, my friend, the excellency of these arrangements. You perceive, in the first place, there is no intercourse whatever between the males and females; they cannot even see each other. None again between convicted and untried criminals; nor between either of them and the vagrants. This must at all times be a desirable object. Persons who have not been convicted of the charges they stand imprisoned for, ought not, in justice, to have a connection with, and be

placed among, such prisoners as have been condemned. The difference of their situation demands a separation. On the other hand, as the intention of the new system of laws is not only to punish offenders, but to restore them reformed to society, it is more absolutely necessary, that the *convicts* should be kept apart from the vagrants.

It is well known, that in no one place are offered more injurious and vicious examples, than in a prison, where condemned, untried and all other classes of prisoners, are intermingled, without regard either to age, sex, or condition. Those in many parts of Europe, and several in America, have long stood melancholy evidences of this fact. Thousands are committed annually for a trifling fault or misdemeanor—many from misfortune or accident—and we may venture to assert, that scarcely one has been dismissed, with the same stock of morality he carried in with him. Accustomed to idleness, debauchery, and practice of frauds upon their keepers, upon visitors and each other, the young and unexperienced criminal is early taught to imitate the dexterity of his elders—the timorous soon acquires the audacity of his more hardened companions—the modest become spectators of, and inured to the indelica-

cy and indecency of others—and thus, amidst such frequent opportunities for vice, are planned, not a trifling proportion of the murders, robberies, and other kinds of villany, perpetrated after their escape or discharge.

In Philadelphia, the *separation* of the different classes of prisoners was early deemed an object of the highest importance, by all who were in any wise interested in the then contemplated reform of the prison government, and as such steadily adhered to. The inhabitants of the prison were extremely averse to the measure, and were always more emboldened in their confidence of its failing, from the countenance of their jailer and keepers, who naturally preferred the old system, as it would furnish them with a greater harvest of perquisites and exactions. Finding at length that the perseverance of “the society for alleviating the miseries of prisons,” bid fair to an extinction of all hopes of their continuing in the same scene of confusion, with one consent they resolved on a breach of prison. The attempt was accordingly made on the evening of the day the new order of things had taken place. Fortunately few of them escaped. The jailer was immediately discharged, and since that period almost every project for the same purpose has fail-

ed, either from the want of unanimity of the most evil disposed, the fears of those less so, or the decided disapprobation of the greatest proportion of the prisoners, to any thing of the kind.

Nothing appears more grievous to a person, long initiated into habits of indolence and licentiousness, than the idea of being compelled to alter them. This I hold as an undoubted position; and therefore the constant and hard labour, to which a criminal is sentenced in Pennsylvania, must be productive (and it has been) of the most beneficial effects. Although humane, it is a punishment, sufficiently dreadful and severe to excite terror into the minds of the depraved; and, besides affording an example of true justice, it is of all others the best adapted for the amendment of the convict himself. Another thing; as the design of penalties is not only to prevent the commission of crimes, and reform offenders, but likewise to make reparation for the injury done to society, or one of its members; the last of these objects, cannot be better obtained, than by the personal industry of the criminal, while under condemnation. Of this the legislature were no doubt fully persuaded, when they fell

upon the present improvement, in matters of jurisprudence.

The proceeds of the labour and services of the delinquent are not, in every instance, applied to the use of the injured public, or individual. For if after making the reparation required by his sentence; that is, if at the expiration of his confinement, and after paying the expenses of his commitment, prosecution and trial; the value of articles stolen, or damage done to the prosecutor; the fine to the commonwealth; hire of the tools he makes use of; and lastly, the expenses of his board, clothing, washing and lodging, any balance or overplus is found to remain or be due to him, it is either paid to him in cash or clothing. The fine to the commonwealth is generally remitted.

That part of the sentence, including the costs and expenses of prosecution, and also the expenses of feeding and clothing a convict, are advanced by the county in which he takes his trial, and are afterwards repaid by the industry of the criminal. When the prisoners sent to the prison, from other counties, have incurred a charge for their maintenance, more than the profits of their labour will defray, they are reported by the in-

inspectors to the commissioners of the county of Philadelphia, who are authorized to, and procure, a reimbursement, by drawing orders upon the treasurer of the county, from which they are removed.

The quantity of stock and materials, working tools, and implements necessary for the constant employment of the prisoners, are purchased by the jailer, with the approbation of two of the inspectors, and payment for them provided by the commissioners of the proper county. He delivers out their work, and receives it from them by weight or measure, as the case might be, in order to prevent embezzlement and waste. The work assigned the prisoners is adapted to their age, sex and circumstances of health or ability, regard being had at the same time to the employment which is most profitable.

The agreement for the most valuable species of labour, such as stone-cutting, and sawing marble, as likewise for the purchase of nails, is made between the inspector and employer. The contracts for other work, as spinning, cabinet makers, or joiners work, &c. are commonly entered into with the jailer.

For each convict, a separate account is kept by the jailer, charging him with his clothing, sustenance, &c. and in which a reasonable allowance for his labour is credited. It is generally rather less than the wages of other workmen in the city. These accounts are balanced at short periods, in order that the overplus or proportion, which might be due to the prisoner, may be paid into the county treasury for safe keeping; and, once in every three months, they are audited before the inspectors. The committee of inspectors, once during the same period of time, fix the charges for the prisoners maintenance, which depend on the existing price of provisions, &c. It is now one shilling and three-pence per day for the males, and seven-pence for the females. There are few who do not earn above two shillings. The marble sawing and manufacturing of nails are the most lucrative employments followed in the prison. Several were pointed out to us, who earned at these occupations above a dollar, and one in particular, whose daily labour averaged one dollar and an half.

The clothing of the convicts is altogether manufactured in the prison, and adapted to the climate and season. In winter, the men are dressed in jackets, waistcoats and trowsers of woollen;

and in summer, with coarse linen shirts and trowsers. The women in plain gowns of the same. The stuff for the whole is woven by the males and made up by the females. There is, at the same time, not a matrafs, sheet, rug, coverlid, nor any thing else in that line, but what is likewise manufactured in the house. The store-room contained a great stock and variety of articles, in quality equal to any thing of the kind I have seen for some time. The most valuable articles, such as nails, plaster of Paris, marble, &c. are in such demand, as generally to be disposed of as soon as manufactured or prepared.

Great attention is paid to the health of the prisoners. On any person's complaining, and upon examination of the physician found to be diseased, he is removed to the infirmary of the prison, his name entered on a book kept for the purpose, and there remains until he is in a proper condition to leave it. The time is determined by the report of the physician, which, as soon as made, is entered in the keeper's book, when the prisoner must immediately resume his accustomed employment.

While at their work, the prisoners are permitted no singing or laughing, nor indeed any con-

versation, except such as may immediately relate to their business. This prohibition of all unnecessary converse is relied upon, as an essential point for the complete administration of the prison; and whoever will subscribe to the doctrine, that the less exertion which is given to the nerves and organs of sense, must calm the state of the system, and, by an immediate consequence, soften the disposition of the heart, will as readily consent to the policy of the regulation. But, to enter a jail, you will say, without being importuned by the frequent and insolent requests of some prisoners, or alarmed for your safety, from the daring threats and villainous miens of others, can alone proceed from the most extraordinary and severe discipline: and yet in this prison it is effected with ease.

This silence, which the inspectors have been so strict in enjoining upon the labourers, has been as rigidly put in practice, and is the first circumstance that will arrest the attention of a stranger. The behaviour and looks of the criminals, at the same time, do not border on disgust, and of course not troublesome, as on no account are they permitted to address or beg alms of a visitor—nor do they do it.—Having been left alone with the prisoners, at different times, in their several apart-

ments, we wanted not opportunities to discover, whether the fear of their keepers, or their own conviction of the necessity of the regulation, had the greatest weight in restraining them from a breach of it: the latter we found to predominate. None of them ever made the first advances to converse with us, and only once was a request ventured, and then by an industrious shoemaker—and for what think you?—For a piece of tobacco.—Fortunately one of our company had a little which was given him. A chew of tobacco is esteemed a luxury with most of them, but strongly forbidden by the inspectors, and perhaps with much reason. It is an idle, dirty habit, affords no nutriment to the body, and not unfrequently leads to intemperance in drinking. However contrary our gift was to the rules of the prison, and notwithstanding it might have given offence, had it been known, still we should never reproach ourselves with our conduct. He must want a heart indeed, who could not have found a disposition to relieve, if placed in a similar situation. The man was industrious, his air interesting, the manner of his request modest and becoming.

All the prisoners rise at the dawn of day; so that after making their beds, cleansing and wash-

ing themselves, and other little necessary arrangements, they generally commence their labour by sun-rise. After this no convict can go into any part of the house, other than the place or apartment assigned for his business; and particularly the nailers, carpenters, shoemakers and weavers, who can, on no pretence whatever, leave their shops, or permit any other prisoner to come into them, without giving immediate information to their keeper, or by permission of the keeper. The rooms in which they work are not locked. About seven are in a shop, one of whom is appointed by the jailer, whose duty it is strictly to notice all offences, and in default of it is punished according to the rules. For this, however, there is little or no necessity, as they commonly work under the mutual inspection of each other. The keepers constantly parade among the prisoners, in the court yards and passages.

At the approach of dusk the bell is rung, when they must leave off labour, immediately repair to their rooms, and form themselves in such a manner, that the keeper may have a perfect view of every person belonging to each room. They remain thus formed, till he calls the roll and counts them: he then locks them up in their apartments, but without candle or fire, except in extreme cold

weather. From this time half an hour is allowed them to adjust their bedding, after which they are not permitted to converse aloud or make a noise.

Four watchmen are obliged to continue in the prison all night : two are within the iron grated door, and two in the inspectors room. In their turns they patrol the passages constantly, and strike the bell every hour. They report on the morning of the succeeding day, any remarkable occurrence of the night, to the clerk of the prison, who commits the same to writing, and lays it before the inspectors at their next meeting.

In going through this prison, you are not disgusted with those scenes of filth and misery, which generally distinguish jails from other places. On the contrary, the industry, cheerfulness and cleanliness, which meet the eye in every direction, cannot but be peculiarly gratifying. I assure you that my nostrils were not once invaded by the least unwholesome or even offensive smell. In the bed rooms the beds were all made up, and the floors white and perfectly free from dirt. This was so surprising, that one of our company in amazement inquired, how it was possible to enforce a regulation of this kind among so many people. "Oh Sir," answered the keeper, "our me-

“thod is one and invariable. The prisoners well know that a transgression of the rules is never overlooked, and contrive to adjust their conduct accordingly.” On conversing further with him, I found that the criminals in the different rooms, for their own convenience and comfort, had adopted among themselves *secondary* and inferior governments. One of their principal regulations relative to cleanliness was, that no one who found occasion should spit elsewhere than in the chimney. The punishment annexed to the person, who thought proper to infringe this general rule, was simply an exclusion from the society and conversation of his fellow convicts, and this is found to be sufficient.

By the laws of the prison, the house must be swept every day by some one of the convicts. The duty is taken in rotation. It is also washed once a week in the winter, and twice in the summer, from one end to the other, and as often in a year completely white-washed. A good proof of the cleanliness of the place you have, when I mention from authority, that out of eight thousand and sixty persons, who were confined in the several apartments of the prison (the debtors jail included) from the twenty-eighth day of September 1780, to the fifth of the same month in 1790, on-

ly twelve died of natural deaths. Since the latter of these periods, the establishment of the new system of discipline has produced much better arrangements, as well in respect to the comfort and health, as to the good order and government of the prisoners. This has been evident in several instances. The physician's bill, which formerly amounted to twelve hundred and eighty dollars a year, seldom exceeds at present one hundred and sixty; and excepting in cases of contagious diseases, not more than two prisoners have died from June 1791 to March 1795, a period of nearly four years. During the fall of 1793, when the yellow fever had extended its fatal ravages over every part of the city and suburbs of Philadelphia, we have from Mr. Carey, in his account of that calamity, that only six persons in the prison were taken sick, and sent to the hospital; although the situation of jails, even under the best administration, makes them most frequently liable to the generation of contagious and other diseases. At this time, too, were confined there, by order of the French consul, one hundred and six French soldiers and sailors, besides one hundred other prisoners, composed of convicts, vagrants, and criminals committed for trial.

What a great object is this, my friend! When we reflect on the possibility, nay often probability of men being imprisoned for months, and on their trials proving entirely innocent, it certainly should be the care of legislatures, in all countries, to make places of confinement as comfortable as possible: not to heap fellow citizens together, subjecting them to all the disorders, which filth and closeness of air may occasion. As the temporary forfeit of the liberty of the accused can only be justified on principles of necessity, and as innocence must be presumed, until the contrary appears, 'tis unpardonable to add to one misery, more inconveniencies than are necessary for the safe keeping of a prisoner. To impose filthiness on a convict is cruel; for surely he is sentenced to imprisonment, not to linger out a miserable existence by the hand of disease. Even the highest grade of guilt cannot forfeit our compassion in this respect towards a criminal, and especially when, by withholding it, the community acquires not a single advantage.

The cleanliness of the prisoner's person is likewise particularly attended to. On the first admission of a convict, he is separately lodged, washed and cleansed, and continues in such separate lodging, till it is deemed prudent to ad-

mit him among the other prisoners. The clothes in which he is committed are fumigated and laid by till his discharge. They regularly shift their linen, and are shaved twice a week. Previous to commencing their daily labour, they are made to wash their face and hands, and in the summer months to bathe themselves, in a large basin in the court yard provided for the purpose. Towels are fixed in the different courts. Their hair too is cut decent and short once in a month, and for the convenience of the barber, the whole number of men is generally divided into four equal parts; so that one fourth part have their hair cut every week.

Independent of the individual comfort, naturally arising from a strict attention to cleanliness, and its powerful conduciveness to health, it is more absolutely necessary among criminals, than with other persons. In a prison government, which contemplates the amendment of its subjects, it cannot with propriety be neglected. From the connection of the body with the mental and moral faculties, or rather from the influence which the disposition of the former must have on that of the latter, it is certain, that a man's morals must, in some measure, depend on the proportion of ease and comfort the body enjoys. Such confi-

dence have the princes and legislators of ancient eastern nations placed in this, or some other like self-evident proposition, that they conceived cleanliness as a very principal physical cause, in correcting the vices of their subjects. Else why do we observe the many purifications by incense, cleanings and bathing of the body, so carefully impressed upon them as an established principle of their religion? These rites were chiefly intended to inculcate morality, as well as to guard against interruptions to their health by unclean diseases. How few men are there, who do not feel most disposed to laziness and inactivity (the common parents of many other vices) with a dirty skin and shirt!

We witnessed a circumstance, which would not only excite the astonishment of all, but must impress every visitor's mind with a favourable opinion of the administration of the prison. It is the humanity of the keepers to the convicts. The opportunities which keepers of jails generally have of exercising a petty tyranny and cruelty over the criminals entrusted to them, and their use of these opportunities—indeed the many marks of hard-heartedness and brutality, which can often be traced in their visages, as well as in their actions, had almost made it pro-

verbial with me, that to find fellow feeling in one of them, *is as difficult as to discover crocodiles in Greenland, or sea-calves in Egypt.* And to be told, that a turnkey was beloved by criminals, would hitherto have been a matter of as much surprise to me, and entitled to as much of my credit, as of *Reynard* being attached to a hound. Neither of them I conceived to be within the limits of probability. I have however been disappointed. Yes, my friend—I *have* been in a prison, where the heart of a turnkey is like that of another man, and where humanity is the standing order of the day.

It is the chief object of the keepers, to command as much respect as possible from the criminal, and yet without laying him under any undue fear or restraint. By these means the convict becomes insensibly and gradually attached to him, and his mind better prepared to receive any impression he might wish to make. The result of which is, that a keeper seldom speaks to a prisoner, but what he is answered with respect and with mildness.

In passing among the stone-cutters, a negro in particular attracted our attention. His countenance bespoke contentment, whilst his eyes ex-

pressed an anxiety that we should address him. I relieved it by interrogating him, as to the length of time he had been confined, and how he was pleased with his condition. His answer was, nine months, and to continue three more. That with respect to living, clothing and treatment, it would be ingratitude in him to complain. On asking the cause of his confinement, he related to us with the most interesting eagerness, all the circumstances of his commitment and trial, endeavouring to convince us of his innocence of the fraud, for which he had been condemned. We dissembled, and appeared to be perfectly satisfied with his tale, which gave him pleasure. He felt happy that we should depart with a favourable opinion of him. The case was the same with others whom we accosted, who appeared delighted at the opportunity of telling us a favourable tale. Several of the prisoners again held down their eyes, and appeared affected that we should look on conscious folly. But in the countenances of none, did we perceive those marks of hardened villainy and audaciousness, which too unfortunately characterize the inhabitants of prisons.

Although reformed in other respects, many of them persevere in attesting their innocence, when addressed by a stranger. This dissimulation must

# A SUMMARY VIEW and COMPARISON of the different Schemes of Public Loans described in the SUPPLEMENT.

N. B. The Sum borrowed is always supposed FIVE MILLIONS; and the Price of the 3 per cents. 781. But all the Schemes may be accommodated to any other Price of the 3 per cents. and to Schemes for borrowing any greater or smaller Sums.

	OLD SCHEMES.		Scheme of the loan in 1777. Page 185.	Scheme of 1777, altered to avoid douceurs and an artificial capital.		Scheme of 1777, supposing 100l. four per cent. stock worth 781. when the 3 per cents. are at 781. Page 200. VI.	Scheme founded on the regulations proposed Page 205, &c. VII.	Schemes of loans by changing the 3 per cent. stocks to stocks bearing higher interest.	
	I.	II.		See Page 186.	See Page 188.			See Page 209.	See Page 214.
	Scheme described Page 182. £. 5.000,000	Scheme described Page 183. £. 5.000,000	III. £. 5.000,000	IV. £. 5.000,000	V. £. 5.000,000			VIII. £. 5.000,000	IX. £. 5.000,000
SUM ADVANCED - - -	5.000,000	5.000,000	5.000,000	5.000,000	5.000,000	5.000,000	5.000,000	5.000,000	5.000,000
NEW CAPITAL, or sum payable at redemption }	5.000,000	6.343,954	5.000,000	4.750,000	3.750,000	5.000,000	4.850,000	2.500,000	— 0 —
Interest offered - - - -	3 per cent.	3 per cent.	4 per cent.	4 $\frac{1}{4}$ per cent.	4 $\frac{1}{4}$ per cent.	4 per cent.	4 per cent.	4 $\frac{1}{4}$ per cent.	4 per cent.
ARTIFICIAL CAPITAL, or sum payable at redemption more than the value received - - - - }	1.200,000	1.343,954	250,000	— 0 —	— 0 —	* 450,000	— 0 —	— 0 —	— 0 —
DOUCEURS consisting of additional capitals - - }	— 0 —	1.343,954	— 0 —	— 0 —	— 0 —	— 0 —	— 0 —	— 0 —	— 0 —
Short Annuity worth - -	1.200,000	— 0 —	200,000	— 0 —	— 0 —	450,000	— 0 —	— 0 —	— 0 —
Lottery worth - - -	— 0 —	150,000	150,000	150,000	150,000	150,000	— 0 —	— 0 —	— 0 —
ANNUAL CHARGE.									
Perpetual - - - - -	150,000	190,318	200,000	201,875	159,375	200,000	194,000	212,500	200,000
Temporary - - - - -	100,000	— 0 —	25,000	25,000	75,000	56,250	— 0 —	— 0 —	— 0 —
	For lives or 17 yrs.		for 10 years.	for 10 years.	for 27 years.	for 10 years.			
Total of Annual Charge	250,000	190,318	225,000	226,875	234,375	256,250	194,000	212,500	200,000

This Scheme may be altered to avoid the artificial Capital and 450,000l. Douceur (preserving nearly the same annual Charge) in the Manner directed in the 4th or 5th Scheme.

be expected ; for what must be the sensations of one of these men, on reading in the visage of a visitor, an impressed certainty of his guilt. Were he conscious of it, and had repented of the action, would he not be anxious to remove it? Yes—nature, in order to pourtray herself in the fairest colours, would often persuade a man to encroach thus far upon the laws of morality.

Another incident occurred in our visit to the women's apartment, which no less evinced the good treatment these people meet with. The keeper who conducted us through this ward had been absent for some time, and had accidentally called on a visit to the prison. The women were about retiring from their labour. No sooner was the voice of this person heard on entering, than it was recollected by a decent looking young woman standing in the passage, and in a moment *Davis* (for that was his name) was whispered through all the apartments. With the most heart-felt expressions of joy, they hastened from their seats to welcome him on his return, and on his part he received them with a mixed sense of tenderness and satisfaction. What a feast would this have been for an Howard's heart! What a field does it not open for the consoling reflections of every philanthropic mind! Humanity must always be vene-

rated, and ensure its just weight of applause; but when we perceive this divine attribute in the turn-key of a prison, what panegyric can be too great for that man's virtue, who, in spite of all the tempting allurements, to which love of power is apt to incline mankind, would not descend to tyranny and cruelty, and in defiance of the long established *carmen necessarium* of jailers, can boast of being a protector—an instructor—not an iron-hearted overseer! But why should this be said? Why carry wholly to the credit of an individual, a virtue which is inseparably connected with, and proceeds, as shall hereafter appear, from the beauty of the new system of administration? Nay, more; why throw out an expression, from which an inference might exist, that there is a possibility of oppression and injustice towards the prisoners? Alas! a too long received impression of the horrors—the abuses of those sepulchres and abodes of human wretchedness—stands my apology. I ought to have kept in remembrance, that the present *Philadelphia Prison*, from the nature of its institution, forbids the very thought.

These incidents, however, have been mentioned to shew that the prisoners are satisfied and live well; and the fact is, they do. The male convicts are allowed, for breakfast and supper, as

much as they can eat of a pudding made of the meal of maize corn, called mush.\* At dinner they have, three days in the week, about half a pound of bread, with a pint of potatoes; on other days, mush and potatoes: on Sunday, a pound of wholesome meat is distributed to each prisoner. Those among them who behave themselves well are, at times, permitted the indulgence of procuring other provisions, at their own expense, but the practice is not common. The nourishment of the women is of the same quality with that of the males, only not as considerable, from their services being less laborious. Contracts for the food of all the prisoners are entered into by the jailer, and the whole paid for by the inspectors.

The drink of the criminals is molasses and water. Spirituous liquors are forbidden, except for medical purposes, prescribed by the attending physician; and the person who sells, or suffers them to be introduced, on any other occasion, subjects himself to a penalty of five pounds: if an officer of the prison, dismissal from office. The reason of this rigorous regulation arises, in the first place, from the probability of the abuse which might be made of the practice, were it once introduced; and, in the next place, from the

\* Similar to the *hominy* of the Southern States, only not so coarse.

conviction of the inspectors, that those liquors act not so powerfully in strengthening a body, doomed to more than ordinary toil and labour, as the effects of good, wholesome water. That whatever cheerfulness or vigor it may produce in a labourer, it is merely temporary, and like all high stimulatives, its operations are no sooner at an end than the system is left enervated and fatigued. Nor are the inspectors governed by less reasonable motives, in their choice of a cheap diet, and the exclusion of much animal food from the convicts. The citizen who once makes a violation of the family compact has left but a very slender claim on the public attention: the only one, if it may be so called, is their obligation to restrict him from further opportunities of incommoding them, by reformation or other means; at the same time with the least possible expense to themselves. Happily the regulation fallen upon by the inspectors, with respect to the subsistence of the convicts, has appeared more likely to assist, in arriving at this *desideratum* of prison governments, than many others through the same medium of diet, although more economical; that is to say, the two ideas of *economy* and *utility* are by it more closely connected. The mush, on which these people are fed, is the substance of the most wholesome and nourishing grain we know of; extremely

light and more easily digested than almost any other species of food: consequently the more useful. To those persons who feel disposed to doubt the efficacy of aliment on the temper and behaviour of men, I need only remark, that the experience and observations of several of those entrusted with the superintendance of the prison, have led them to conclude it as not a trifling contributor to the good order of the convicts. *Moral*, though not always, is often a consequence of *physical* evil; and as we find from our own experience, that different qualities of meat and drink produce in the mind as many temporary desires, degrees of sourness, gentleness, heaviness or hilarity, so it is equally reasonable to presume, that a long and habitual use of a light, wholesome nutriment will keep the disposition more uniformly kind and serene.

The convicts are called to their meals by the ringing of a bell. We saw the men sit down to their supper, and I do not recollect a scene more interesting. At one view we beheld about ninety fellow creatures, formerly lost, as it were, to their country and the world, now collected into one body, and observing that air of *composure* and decency to each other, consequent only from a long and continued practice of moral habits.

They were seated agreeably to classes, or rather, the shoemakers, stone-cutters, nailers, carpenters and weavers, formed each a distinct class. During the time of eating, we witnessed no laughing, nor even an indecent gesture; but a perfect and respectful silence reigned along the benches. They remained seated until all were ready to rise, of which notice was given by the attending keeper. They then immediately repaired to their respective employments. Their eating room is the left part of the court of the front ground floor or half story.

About one-eighth of the number of convicts compose the negroes and mulattoes, between whom and the whites, in this country, are none of those shameful, degrading distinctions you are daily accustomed to in the Southern States. Tried with the same legal solemnities, and by the same tribunals, they have equal privileges with other condemned criminals. At supper, I observed, they were all seated at the same table, a prospect that afforded, as you might well conceive, no small gratification. Like Brissot, I can say, "It was to me an edifying sight—it seemed a balm to my soul."

Slavery, my friend, is approaching to its dissolution very rapidly in Pennsylvania ; and I hope, before long, will receive its final death-blow. Liberty, humanity and reason have already decreed its doom.—The hand of universal justice is uplifted to inflict it—God grant it may fall with vigor!—Slavery in its fullest extent, however, never was so perfect as it is in the Carolinas and Georgia. The Africans always possessed, in common with other men, the liberty of life, and other privileges which have been uniformly denied them in those countries. At present it can only exist for a certain term of years, till the slave is of age, during which time he is placed upon the same footing with an indented servant. What portion of rights this class of the community at this moment possess, the board of inspectors are extremely careful and jealous of; so much so, that they direct the visiting inspectors constantly to bear in mind, that all men are free until legal proof is made to the contrary. They therefore take care that no person is held in confinement on a mere suspicion of being a runaway slave; and those persons who are actually slaves, and not applied for by proper claims within a limited time, they return to the supreme or other court for a Habeas Corpus, to remove them according to law.

May the same spirit of philanthropy, now about to crush in this part of the world, every vestige of the most disgraceful and inhuman policy that ever existed among mankind, extend itself at least so far amongst you, as to procure from your government an amelioration (if nothing more) of the condition of these long injured, these cruelly oppressed people. Shame! Shame! to Carolina, that as yet it has not taken place! How much more edifying to yourselves and posterity—more congenial with your true interests—more consistent with the glorious principles, whose establishment you have assisted in sealing with your blood—and less derogatory to your national character as men, moralists and Americans, would that line of conduct be, which evinced some little disposition to promote the *gradual* abolition of slavery—An evil universally acknowledged, and no where so much as among yourselves. Let me hope however, that the imputation of your want of humanity in this instance will soon cease to have existence: that the fordid views of all *importation-wishers* may meet with the confusion they merit. I despair not that they will—The prompt, the friendly relief, always offered to foreigners, whom reverse of fortune and other miseries of war have cast on your shores; your no less benevolent attention to the distressed of your

own citizens; your noted hospitality to all strangers and travellers, all, all conspire to persuade me, that Carolinians must, in the natural course of affairs, and before long, be as strongly characterized for their justice and fellow-feeling to those more immediately around them at home. Gratitude for favours secures an interest in the heart. Revenge is often the only consolation to a mind in chains.

To return from this digression. A person would conclude, that among these prisoners, made up of the dregs of society, there could not possibly exist the harmony and good order which pervades and is visible in every part of the prison, and naturally inquire, by what means this decency of deportment can be brought about. I will answer you, my dear Sir: not by such corporal punishment as whipping. This is now entirely unknown in the prison: the keepers are not even allowed to lay violent hands on any of the criminals. I have often wondered, for my part, that, in civilized countries, such a mode of punishment should be countenanced—one that originated among savages. To expose the bare back of a human creature to the lash of a whip or cow-skin is, to me, horrid: I never saw it executed, without feeling every sense of indignation. It is surely from a principle of barbarity that a government inflicts this punishment; for it is practised among so many enlightened nations, that candour would forbid the attributing it to their ignorance of its inutility. Can it be supposed,

that, after fixing upon a man so indelible a stigma as the furrows of the lash, any hope of reformation can be cherished? Is not all his spirit destroyed, while labouring under an infamy of the kind? And will it not finally force him to despair, and consequently oblige him to seek revenge, by repeatedly harassing the race who occasioned it? Where, I ask, is the victim to the scourge, who has not become more hardened and depraved? Alas! sad experience answers, none! An instance can scarcely be adduced of a criminal being thoroughly reformed by whipping. The amendment, if any, has been at most only temporary: just as when the soldier, who has been more than once brought to the halberd, will, while in the ranks, obey his commander and do his duty; but is no sooner discharged, than he is ripe for plunder on the society with whom he is garrisoned.

Besides, the slightest examination into the springs of human action will fully demonstrate the uselessness of this mode of punishment. We know that there are in every man, even in the most hardened offenders, some few sparks of honour, a certain consciousness of the intrinsic beauty of moral goodness, which though they may be latent and apparently extinguished, yet may at any time be kindled and roused into action, by the application of a proper stimulus. This stimulus must not be such a one as would, in its operations, suppress any of those passions with which it ought to act in unison; but, on the contrary, should awaken them as much as possible. A very predominant one is emulation: destroy that, and you at once paralyze the efforts of the soul, and place the axe to the root of all that is good and great. It is this passion which spurs

us to every worthy action; governs all ranks, from the prince to the peasant; and to which we are indebted for a great part of the improvements which have taken place among mankind. Were it not for this, there would be little inducement for the moralist to point out the relative duties of man, considered as a member of society; or the philosopher to engage in his arduous researches into the unexplored principles of nature. Both proceed from a hope of reward, or prospect of good: for, as the former is actuated to the practice of a virtue, because it is so highly appreciated by his Maker, so the latter is anxious to be foremost in his discoveries for the utility of the world.

Emulation, then, being a principal, and often an only incentive to a moral conduct, it is evident that the punishment of whipping, which tends to stifle it, is an improper stimulus, and must necessarily involve in its consequences nothing beneficial; while it cannot fail, at the same time, to reduce a man to the pitiable level of a human being, disarmed of one of the most amiable passions. And what is he in this situation?—A mere machine moved at pleasure, by every stroke of the cat.—His labour, it is true, may be produced by it, for there is no warring against bodily pains; but this is the least which is required: one of the principal ends of punishment, the amendment of the offender, is defeated and irrecoverably lost.

Howard seems to have thought, that whipping was at times absolutely necessary in the management of some criminals, and mentions in his works, I think, an instance or two of its good effects. With the greatest deference to so superior a judgment, I

can never subscribe to this opinion, for the reasons just mentioned. With children or boys, no other principle than that of fear will govern, and perhaps no punishment avail more than whipping: but where reflection once holds a post in the mind, I have been always firmly persuaded, that mankind would more likely be reformed by almost any other mode, than by a severity of this kind. A profligate son we find may be generally amended by precepts given in the influxious language of parental instruction, and why despair of the same remedy to overcome the vices of a criminal—A nation is merely a family in large. But let us look into, and examine the human heart, for the truth of this assertion, and what room is there for doubt? Do we not perceive its natural disposition such as stubbornly to oppose the most approved precepts, when an adherence to them is demanded with the rude commands of tyrannical authority, or attempted to be enforced by a punishment like this. On the contrary, how yielding is it to the calm and soothing voice of persuasion or reflection!

The managers of the prison have so great a confidence in the efficacy of mild and gentle measures of treatment, that they will not suffer, on any account, such a constraintive measure as placing a criminal in irons; conceiving it by no means calculated to produce in the mind of the convict, the amelioration which is thought so essential for his amendment. Nor are the keepers permitted to carry sabres, pistols, or weapons of any kind, as is customary in prisons, nor even a cane, for fear that on a trifling provocation they might be induced to beat a criminal.

The keepers and turnkeys, my dear sir, are not similar in any respect to those in other countries;

for independent of the little inclination they might have to ill treat a criminal, the strong recommendations required for their sobriety and humanity, being always necessary to the appointment of proper persons to fill those offices, still they would find the abuse almost impracticable, from the unremitted vigilance and attention of the inspectors. The appointment too of the jailer is more particularly attended to, as upon him in a great measure devolves a duty, which if well executed, cannot fail to ensure a more complete success to the new mode of discipline. His salary therefore is fully adequate to his services, as are those of the inferior officers. The total prohibition again of all perquisites, whether arising from the purchase of favours, or the retailing of spirituous liquors, dismissal fees, and in fact extortions of any kind—the unqualified proscription of fetters, beating, and all arbitrary conduct whatever—and the end of the institution, aiming at the reformation instead of the debasement of criminals, makes the jailer's duty an humane one, and of course renders the place an object with many worthy persons in the community; when in most parts of the world, the nature of their prison governments partakes of so much depravity, that the very existence of them depends on the exclusion of men of sensibility from those stations. The immediate administration then of the prison, being in the hands of officers of this opposite description, the amendment of the prisoner, and the example given to society, by his severe yet just and humane punishment, can be accomplished by few or perhaps no better regulations than what have been adopted.

On the first entrance of a convict, the inspectors receive from a proper officer of the court, before

whom the conviction was had, a brief report of the circumstances attending his crime; particularly such as tend to palliate or aggravate it, with other information respecting his behaviour on his trial, and his general conduct previous to and after receiving the sentence of the court. This knowledge of the prisoner's character and disposition, while it affords them an opportunity of ascertaining the degree of care, which may be requisite for the annihilation of his former bad habits, is yet attended with another advantage, that it early evinces to the criminal the strictness with which he may afterwards expect to be treated. He is then informed of and made fully acquainted with the rules and government of the prison, and at the same instant, no pains are wanting, on the part of the inspectors, to enforce upon his mind the strength of moral obligations—the breach he has made of those obligations—the consequent injury done thereby to the society which protected him—the forfeit he has made of that protection—and the necessity of making a compensation by his example or amendment. Add to this, every encouragement is given him to perform his duty with alacrity, and to observe a decency of conduct towards his keeper and co-associates. Animated also with a promise and hope, that an enlargement before the expiration of the term he is sentenced to will most probably follow a long and uninterrupted line of good behaviour, the prisoner easily becomes sensible of the policy of a respectful, industrious deportment.

The inspectors, it ought to have been mentioned, are authorized to intercede with the executive power for the pardon of reformed convicts, and are generally able by their influence to obtain it. The

right nevertheless they never exercise, but with extreme caution, and unless, from the repeated reports of the jailer and keepers, they are persuaded that a prisoner has uniformly demeaned himself with propriety, has repented of his past follies, and in fact that a very visible change and complete amendment has taken place.

At times the inspectors, in their tour of duty, make it a point to discourse with all the criminals, one by one separately, in order to assure them of their relative duties, considered as men, moralists and members of society. The exhortations, on these occasions, proceed from them with such a philanthropic calmness, so much warmth of heart, that their appearance among the convicts never fails to cast a fresh beam of comfort on every countenance. Richard H. M\*\*\*\*\* Esq. entered while we were in the women's ward. He had the jail book in one hand and a pencil in the other. This is customary with the inspectors on duty. Among others a young negress accosted him on the subject of her confinement. With simplicity was her tale delivered—with attention was it listened to. Her sentence, if I mistake not, was two years imprisonment, nine months only of which had been complied with. No exception was ever taken to her conduct since her first entrance; it had been regularly pleasing. But the demand for a discharge was certainly unreasonable, and in that light viewed by Mr. M. and all of us. On his expostulating with her, on the impropriety of remitting so great a proportion of the sentence, she declared herself satisfied with his reasoning, and resumed her employment at the spinning-wheel with cheerfulness and activity—Such, my

friend, is the result of deliberate persuasion in matters of this kind.

A criminal again, is well aware that wantonly to insult, or thwart the precepts of an inspector, would, in addition to the penalties annexed to this transgression by the rules of the house, render him despicable in the eyes of his brother convicts—a consideration of serious weight with all of them. But laying this entirely aside, we might venture to predict that nothing of the kind would probably take place. For where is the wretch so bold in iniquity, so debased and void of sensibility, who would delight in ruffling the feelings of one, whose only incentive to the task of superintendence is his disposition to soothe the unfortunate—to seek them in their misery—and pour into their souls the healing draught of consolation? Say not among criminals or any other class of men. An experiment has been made nowhere excepting in Pennsylvania. Even under the best administrations abroad, where prisoners are carefully and well treated, they have notwithstanding been more or less influenced by a belief, that their good fortune proceeded rather from ostentatious or other motives of their benefactors than any real sympathy for their condition. That with all the humanity of their governors, they can still discover in their conduct something like an inward contempt for them. This no doubt will always remain a formidable bar to their amendment; and to remove it, it is barely necessary to assure these people, by actions or other means, that you attribute their situation to misfortune, to bad education, and other adventitious circumstances in life—not to any innate thirst for vice or villiany. That knowing their faults and errors, you would sooner conceal them

in the unfathomable depths of oblivion, than merely cover them with the slight veil of a counterfeited friendship: all which are actually enjoined on the inspectors, by the powerful dictates both of duty and inclination.

All means are used by the inspectors to promote moral and religious improvement in the prison, by the introduction of useful books amongst those who request them, and the procuring the regular performance of divine service. X To assist them in the pursuit of the latter arrangement, the task is voluntarily undertaken every Sunday forenoon and afternoon, by some one of the society of Friends,\* or the clergy of different denominations, and sometimes by the bishop. X The service consists of a sermon and a lecture, on subjects suited to the situation of the convicts. All the convicts and other prisoners, both male and female, are compelled to give attendance and arrange themselves according to classes. This is the only time in the week that the different classes of prisoners have a view of each other. From one of the inspectors I learned, that their attention to the speaker and decency of conduct, on these occasions, is peculiarly striking to a by-stander. The place appointed for the purpose is the long court of the first front story.

After so many different methods of inculcating morality among the inhabitants of the jail, a very strong motive to the effecting of which is found to be the good example and reformation of the major part of them, you may inquire, Are there not men, nevertheless, so hardened as to require a much more

\* Quakers.

forcible restraint from vice than this? Is there no motive of fear to govern characters like these? No punishment?—Yes, my friend—there is a principle not only of fear but of horror—there is a dreaded punishment, as shall be explained to you.

When a convict has committed an offence by refusing to labour, by profane cursing and swearing, or by quarrelling and abusive words, &c. he is first warned of it by the inspectors, the jailer or the keeper, but no harsh words are spoken by either of them, to damp the spirit of or expose the prisoners. On the contrary, I repeat, that every mild measure is made use of to persuade them from the same error, and how much it is their interest to adhere to an uniform good behaviour. If this fails in bringing a criminal to a proper sense of his misconduct, and he is observed to be still callous, and likely to continue so, recourse is finally had to a punishment, which places him in a situation where nothing but reflection can occupy his mind, and which must necessarily compel him to listen to the advice of another monitor. This is by solitary confinement, which leads me to describe you the cells which we last of all visited.

These cells are contained in a brick building of two stories, raised upon arches, and early directed by the legislature to be built, for the purpose of this mode of punishment. It is contiguous to the east wing of the prison, and situated in a yard of the dimensions of one hundred and eighty feet by seventy. The greatest part of the yard is appropriated for a garden, managed by some of the convicts, wherein are a variety of fruits and vegetables. In number the cells are sixteen, and from their peculiar

construction and solitary situation, appear to me to be better calculated to bring an offender to a review of himself and conduct, than any punishment that can possibly be contrived. The dimensions of them are eight feet in length, six in breadth and ten in height, with no ground floor, strong thick partition walls and arched over with brick. They are all ranged along passages five feet wide, in the first and second stories of the building. The entrance at the head of each staircase is well secured, by a strong door with locks and bolts, and the entry to each passage with two other doors, one of wood, fastened by a chain to another of iron. To each cell, again, there is a wooden and iron door, the latter secured by a long bar fitting a staple in the wall, about two feet from the door and fastened, some of them with padlocks and others by bars running through the staples down to the floor. In every cell there is one small window, placed high up and out of the reach of the convict; the window well secured by a double iron grating, so that, provided an effort to get to it was successful, the person could perceive neither heaven or earth, on account of the thickness of the wall, and a louver outside admitting the light in an oblique direction from above. The criminal, while confined here, is permitted no convenience of bench, table, or even bed, or any thing else but what is barely necessary to support life, without a risk of endangering his health. A privy is placed at one corner of his apartment, leading to the common sewer communicating with the river, which may be cleansed at pleasure by turning a cock fixed to a pipe: this pipe is conveyed to a cistern, placed in the upper part of the building, near the roof, filled with water by a pump descending through the entries of each story to a well un-

der the building. The situation of these cells is high and healthy, not subject to damp, as dungeons under ground generally are. They are finished with lime and plaster; white washed twice a year; and in every respect as clean as any part of the prison. In winter, stoves are placed in the passages, to keep the cells warm, from which the convicts may receive a necessary degree of heat, without being able to get at the fire. No communication whatever between the persons in the different cells can be effected, the walls being so thick as to render the loudest voice perfectly unintelligible; and as to any other sound, excepting the keeper's voice and the unlocking of doors, they seldom hear. That the criminal may be prevented from seeing any person as much as possible, his provisions are only brought him once a day, and that in the morning.

You may conceive, my friend, what an effect the punishment of being confined in one of these cells must have on a refractory offender. For, besides every consideration of a dreary solitude and a want of comfort, and which must necessarily produce in a mind, thus forced to its own meditations, an uneasy remembrance of the convict's crime and errors, there is added a more painful one; that is, only half an allowance of provisions, consisting of bread and water. The utility of the punishment has been fully demonstrated by experiment; for a prisoner was seldom known to continue long in a cell, before he has early become sensible of the difference of his situation, and would willingly have returned to that regularity of conduct and industry, which his misguided folly had induced him to depart from. Several of the most hardened and audacious criminals, on whom all other modes of discipline were

attended with effects the very reverse of what they were designed to produce, and who in fact were held as objects incapable of amendment, have been, by the simple punishment of *solitary* confinement, transformed into such a calmness of disposition, as to have become entire new beings, and the least troublesome afterwards among the prisoners. We saw three persons in the cells: they pleaded hard for their enlargement once more among their fellow convicts, and offered to conform to any labour, to be released from their miserable mansions.

As to the quantum of confinement necessary to reform a prisoner, it is determined at the discretion of the jailer, who is notwithstanding obliged to inform the inspectors of it as soon as convenient. For a criminal who refuses to labour, it is generally forty-eight hours, and for other offences in a like proportion, according to the exigence of the case. It operates extremely to the prejudice of a convict to undergo this punishment, as he incurs by it a loss of the expenses of his board, washing and lodging, which are still charged to his debit, and to make up which must consequently render his industry and services the greater after being again employed.

Besides those ordered into the cells for transgressing the rules of the house, there are other persons, whose original sentence includes the article of solitary confinement as well as hard labour. These are the convicts contemplated by the law as belonging to the first class; such as persons guilty of rape, arson, and other offences, of which I have already spoken. They are not made, however, to undergo the whole of their term of confinement at first, although the greatest proportion is generally requir-

ed, before they are permitted to labour. The inspectors have the power to direct the infliction of it at such intervals, and in the manner they shall judge best, provided the whole term is complied with, during the stay of the criminal in prison. Persons of this description and class, are upon their request furnished with a book to read, generally the New Testament.

There is not perhaps a physical cause, which has so powerful an influence on the moral faculty, as that of *solitary* confinement; inasmuch as it is the only one which can give a friendly communication with the heart. We become by it gradually acquainted with a true knowledge of ourselves; with the purity of the dictates prescribed to us by our consciences; and of course easier convinced of the necessity of conforming to them. It is in this state of seclusion from the world, that the mind can be brought to contemplate itself—to judge of its powers—and thence to acquire the resolution and energy necessary to protect its avenues from the intrusion of vicious thoughts; for “the actions of men” are nothing more than their thoughts brought into “substance and being.” I need not press upon you, that these unfriendly visitors are never so well recommended, as when aided by the disguises of society. They are then too apt to wrest the sceptre from our enthroned reflection, and leave us bereft of its salutary sway. But in what state can this guardian of our morals reign with more uninterrupted tranquillity, than in one where scarcely a worldly object presents itself to the eye; or, in other words, *where* so uncontrouled as in the cells of the prison? May we not hence presume, that the unceasing influence of solitude would, in time,

eradicate every reliet of vice which might be lurking in the inner recesses of the mind? Certainly; and it was the confidence which the inspectors, at a very early period, had in the reasonableness of this theory, that induced them to add practice to it—a trial which, as already observed, has more than answered their most sanguine hopes of its success.

We completed, by a view of the solitary cells, our whole tour through the prison. We were an hour going through the different apartments; and I declare to you, that never did I before visit a place which gave me as much satisfaction—never once in a manufactory, in which industry and her almost inseparable companions, good order and contentment, appeared to have so firm an abode. I had heard much of the place before I went, but confess it exceeded every idea I had formed of it; and to convey you the same perfect idea of the institution I have, is not in my power. Suffice it to say; that our compassion was appealed to by no distressing tale of tyranny or ill usage, no cries of poverty, no sighs nor tears of wretchedness: on the contrary, we witnessed all that could delight and gratify the mind. Cleanliness not often equalled, even in private houses—labour ever steady and constant—inspectors instructing—keepers persuading—and criminals receiving, with attention and thankfulness, precepts for their future regulation and conduct: in a word, the whole presenting one picturesque scene of humanity, justice, benevolence and gratitude.

On taking our leave, we made offer of a small donation, which was refused with a polite answer, that the prison supported itself—and it does, my

friend. Government or the public contribute not one shilling towards the maintenance of the jailer, keepers, &c. or to the payment of their salaries and other expenses. The money is simply advanced by them. For a long time it was a matter of doubt with most people, many of them friends too to the new code, whether the proceeds of the labour of the convicts would ever defray the expenditures of the house. Mr. Howard himself assures us, that, "however it might appear in speculation, in practice it was always found the reverse. That in the best regulated houses in Holland, taxes are fixed for their support." From the experience then of this state, every encouragement is held out to the citizens of South Carolina, to delay no longer their aid to the completion of this grand work of philanthropy. The additional costs which must naturally attend, in another country, a reform after the example of Pennsylvania, from building a suitable jail and penitentiary house, would, I am aware, present itself to numbers as an obstacle of moment, and no doubt has already had an influence on the minds of such part of the legislatures of other states, as at present seem but *half* disposed for an alteration in their criminal codes. But this consideration ought to yield to another more weighty. The expense can at all events be only temporary, and would be far less to the government in the result. By the books and accounts of the Philadelphia prison it appears, that the yearly aggregate of the disbursements has not, for several years past, amounted to as much as it did formerly; notwithstanding the alteration made in the modes of punishment throughout the state has rendered it expedient to maintain more persons in confinement, and for longer periods. For this reason: under the present discipline, prisoners are not

governed by beating, by irons, or any capricious constraints of turnkeys. Convicts, vagabonds, persons accused, unruly or runaway apprentices or servants, are not now intermingled and heaped together. Lenity has superseded the abuse of power; cleanliness and comfort take the place of filth and misery. Hence not as many diseases, quarrels or escapes—a necessity for fewer keepers—less medical assistance, carpenters or blacksmiths repairs, &c. The physician's bill actually does not amount to the same by four fifths; that of the blacksmith has decreased in a still greater proportion. So that this annual overplus expected to arise from the greater economy of one system than the other, would of itself soon form a fund adequate to the reimbursement of such sums as might be necessarily advanced for the purpose of commencing a reform; while the issues and profits of the different establishments of manufactories by the labour of criminals, would afford a clear and considerable gain to the government. But even supposing, for instance, that the whole would occasion an increase of the public taxes, what is it, when placed in competition with the numerous advantages that may follow—the peace of society—the better security of the lives and property of the persons upon whom those tributes are levied. No orderly citizen would think his mite ill bestowed for purposes of this kind. Legislatures, at every session employ themselves in enacting laws for cutting new roads, beautifying cities or buildings, and public money expended to accomplish them; while criminal codes lay in the archives of a state, and few are induced to revise them, until the parchments on which they are written become either musty or worm-eaten. At the same time, there offers no where a more ample field for improvement than in the science of

forming good penal systems; for of all others it has, in proportion to its magnitude, been the least attended to: and surely few ought to be more interesting, as few are more immediately connected with our happiness. The chief end of civil government is a preservation of the social compact; and as public measures approach to that point, so must they preserve a greater degree of brilliancy, and become more the objects of general admiration.

To return, however. The prison and its several apartments are under the superintendence of a board or committee of inspectors, with legal powers, chosen from the mass of citizens. The election of one half of them takes place every six months, when those who desire it are generally re-elected. The appointment rests strictly with the mayor and two aldermen of Philadelphia, and the person chosen cannot decline without incurring a penalty of ten pounds; but the common practice latterly has been, that the inspectors going out of office should nominate as their successors, other persons willing to undertake the duty, which is always confirmed. The board consists of twelve, seven of whom form a *quorum*, and meet once a fortnight in the inspectors room. Two of them are obliged to go over the whole prison together every Monday, and oftener if occasion requires, who are named *visiting* inspectors. Their duty is to inspect not only the jailer and other officers, but particularly the behaviour and disposition of the prisoners; to see that they are properly and sufficiently employed; to inquire into their health and take care that their food is served in quantity and quality agreeably to the directions of the board; that the sick are properly provided for, and that suitable clothing and bed-

ding be furnished to all. They hear the grievances of the prisoners, and bring forward the cases of such whose conduct and circumstances may appear to merit the attention of the board. They cause returns to be made out by the clerk of the prison, and laid before the committee monthly, of all the prisoners—their crimes—length of confinement—by whom committed—and how discharged since the preceding return. Besides a regular attendance of the *visiting* inspectors, the prison is every day visited by some one or more of the committee. They all take great delight in, and are indefatigable in the execution of the humane task allotted them.

Subject to the directions of the committee are a jaileress, four keepers, one turnkey and a clerk. The cook, scullion, barber and other attendants, are convicts, who are credited for their services in proportion to the time and labour they expend. I was surprised to find a female in the first appointment; and, on inquiry, found that her husband was formerly jailer. Discharging the duties of a tender parent towards his daughter, infected with the yellow fever in 1793, he caught the disorder and died, leaving the prisoners to regret the loss of a friend and protector, and the community that of a valuable citizen. In consideration of his faithful performance of the functions of his office, his widow was nominated to succeed him. She is exceedingly attentive and humane. Your uncle related to me, what to many would appear a curious anecdote of this lady. It occurred in his visit to the prison. After conversing with her for some time, he inquired of her, whether there were no inconveniencies attending the institution. With the greatest concern she re-

plied, that there was one, which gave her no small degree of uneasiness: that the debtors in their apartments, from being able to overlook the yard of the prison, made her fear that their conversing together, swearing, &c. might corrupt the *morals* of her people. You may think it strange, that debtors should corrupt criminals; but the case is really so, for there is certainly as much if not more morality among the latter than the former. And so fully convinced were the inspectors of her apprehensions being well founded, that, to remedy the defect, they have since had the prison wall raised.

Pursuant to the directions of the legislature, the prison is, at stated periods, visited by a committee, consisting of the mayor and a certain number of aldermen, with some of the judges of the supreme court. The governor of the state likewise, the judges and juries of all other courts, pay a visit to the institution during the same intervals of time. These visits were originally intended by the legislature, as well in order to ascertain how far the abolition of the old criminal code would be productive of the means of preventing wickedness and crimes, as to take care that the attention of the inspectors should be unremitted. They are now rendered not so necessary, as the innovation has been crowned with success, and the vigilance of the inspectors not likely to diminish, when none are appointed except upon their request or consent. They nevertheless answer one good end; for the approbation of such respectable committees must at all times tend to increase the care of those entrusted with the management of the house.

There are likewise two other visiting committees, who do not superintend, but notwithstanding have, at any time, from the nature of their duties, free access to the prison. One is from the society for alleviating the miseries of public prisons, who, as before observed, were the chief promoters of the present improvement in the penal code. They only pay attention to that part of the prison where the vagrants and persons confined for trial are lodged, and to whom several of the foregoing salutary regulations do not extend. They afford relief to suffering prisoners, which they have been able to accomplish to a considerable extent; partly by means of the annual contributions of the members, and partly by directing the distribution of what is occasionally given in donations. They pay off small fees when the case seems to deserve it, and when the party would perhaps be detained for them in confinement: they also make applications to the magistracy for the enlargement of persons illegally confined, which has sometimes happened from the obscurity and friendless condition of the parties. The other committee comes from "the society for the gradual abolition of slavery," who inquire into the circumstances of every African or other person of colour, and take care that none are imprisoned illegally. The services of this committee, in putting a stop to various acts of oppression and injustice, which otherwise would have taken place either from the tyranny or caprice of *men-holders*, do them infinite honour. No doubt their zeal will increase with their success.

The consequences, I repeat, which have marked the progress of the latest legislative amendments to the criminal laws, have been so favourable, that

crimes have actually diminished considerably, as will appear by the annexed tables. The present system too is considered by its friends as still in its infancy. Its effects also on the morals of the prisoners have been no less evident. Re-convictions are seldom heard of. Of all the convicts condemned for these five years past, not above five in a hundred have been known to return; and, to the honour of human nature be it spoken, that some of the convicts, at the expiration of their term of confinement, voluntarily \* offered themselves, while the yellow fever raged in Philadelphia, to attend the sick as nurses at Bush-hill, and conducted themselves with so much fidelity and tenderness, as to have had the repeated thanks of the managers. Few have been known to stay in the prison the whole of the term to which they were sentenced, the amendment and repentance of many of them being so visible to the inspectors as to have had a claim on the governor's clemency. Some have appropriated the proceeds of their labour, while in confinement, to the support of their families; and several, on leaving the prison, have received forty or fifty dollars, the overplus of the profits of their labour, and with this capital turned out honest and industrious members of society.

Thus you observe, my friend, what a great portion of humanity is interwoven with the justice contemplated in this system of criminal jurisprudence, and what a happy effect it has produced on

\* Carey's account of the yellow fever.

the morals of the abandoned part of the people of this country. It would really appear, from the generally adopted mode of exacting the life of a fellow citizen, for so many petty misdemeanors, and even for offences which are politically and not morally wrong, that the object of punishments was *not* the prevention of crimes; that they were not intended for example; but that different princes and legislators had in view a gratification of their revenge, and an increase of the catalogue of offenders. The conclusion might with justice be drawn (were we not charitably inclined to attribute their conduct more to error than otherwise) by recurring for a moment to the fatal consequences which have proceeded from the practice of sanguinary systems, and which have been too obvious to escape general attention. In casting an eye over the page of history we shall find, that in proportion as governments have cultivated a disposition for enforcing laws, by rigorous and cruel punishments, in the same degree have their designs been frustrated, by the more repeated breaches of them.

First, from a view of the ancients. No laws were more unjust, or abounded with so many cruel and immoderate punishments, as those enacted in the reigns of the Roman kings, and also those contained in the twelve tables of the Decemviri. In no instance, perhaps, was the depravity of human nature more completely verified, than in the calendar of crimes which distinguished those eras. When the Porcian and Valerian laws \* were esta-

\* The former of these laws was made about three centuries before Christ, by *Porcius Lacas*, first tribune of the people, and afterwards one of the *Epulones*. The latter derives its name from *Valerius Poplicola*, who passed it not long after the expulsion of the kings, and was re-

blished, the punishment of death was laid aside; the magistrates were not even allowed to inflict corporal punishment on a free citizen. The virtue of the Romans at one of those periods was so great, that Livy tells us, "the only punishment denounced against the transgressors of the Valerian law" was, that they should be deemed guilty of a dishonest action."† It was at these periods the republic was in its splendor, and happy had they been if they had never lost sight of the excellency of that system! Fortunate their lot, if all the attempts, which were afterwards made to bring into repute the former penal code, had been unsuccessful! But alas, the reverse was their fate! The Cornelian, Pompeian and Julian laws, ‡ effected a melancholy change, by reviving the penalty of death. It was not till then that a humane system received its first mortal stab, and the foundation of a code of jurisprudence finished, which, even in the greatest successes of the Romans in after ages, seemed a canker to their happiness. Thus begun, it daily acquired strength, and was so invigorated in the reigns of Nero, Claudius, Caligula, and most of the Emperors subsequent to the time of Augustus, that the cruelty of punishments had arrived to an intolerable height—crimes were multiplied almost beyond former example—the people were observed to relapse rapidly into their pristine infamy and weakness—and the whole gradually terminated, though some few temporary checks were given, in the total ruin of the empire.

newed twice; the last time by Valerius, a descendant of his, in more distinct terms than before.

† Book x. Chap. 9.

‡ Made by Sylla, Pompey and Cæsar.

In more modern times, the effects of cruel punishments have not been less deplorable. In the eastern world, where the torture of the wheel had universally prevailed, till the latter end of the last century, crimes were evidently more frequent than after the partial abrogation of it; and in those countries of Europe, in which this punishment was till very lately tolerated, we observed more heinous offences committed, than in those where it was unknown. Before the late Gustavus the Third abolished torture in Sweden, and substituted pecuniary penalties, and mild corporal punishments, excepting for few of the most heinous crimes, the times displayed very striking instances of the impolicy of severe punishments. The bars of the criminal courts of that country, it is well known, exhibit a far more favourable complexion now than what they did at the commencement of that prince's administration. Nor did we ever learn, that the same step taken about that time by the government of the present dismembered state of Poland, had been productive of other than salutary consequences.

The experience of a very populous European nation, the Russians, would alone shew the uselessness of capital punishments. In the reign of Peter the Great, the statutes of blood were in full force, accompanied with the perpetration of every excess which shocks humanity, and continued so through the reigns of Catharine, Peter the Second, and Anne, till the accession of his daughter Elizabeth. This princess no sooner repealed them than crimes diminished considerably, and the empire flourished. She governed the Russias for twenty years, and effected such a moderation in the penal code, as ne-

ver to have put to death a criminal.\* Nor has the present Empress Catharine been less persuaded of the superior policy of sending felons slaves to Siberia, to work in the mines at Nerzhink, by her abolishing the punishment of death in every part of her dominions.† And it is certain, that in no part of Europe are crimes so rare as in the Russian empire.‡

In Holland and the Austrian Netherlands, few atrocious offenders are to be found.§ To what better cause can we ascribe this circumstance, than to

\* “ L’Empératrice Elizabeth a achevé par la clémence, l’ouvrage que son père commença par les loix. Cette indulgence a été même poussée à un point, dont il n’y a point d’exemple dans l’histoire d’aucun peuple. Elle a promis, que pendant son règne *personne ne serait puni de mort*, et a tenu sa promesse. Elle est la première souveraine qui ait ainsi respecté la vie des hommes.” *Hist. de Russie par Voltaire.*

† See Tatishchev’s translation of the “ grand instructions for framing a new code of laws for the Russian empire.

‡ “ Les grandes crimes ont commencé à devenir plus rares sous ce règne, où personne n’a été puni de mort.” *Hist. de Russie par L’Evesque, Tom. V.* The following first part of an extract from the journal of a gentleman who resided sixteen months in St. Petersburg, which he was so obliging as to furnish me with, serves to strengthen what L’Evesque has advanced. “ During my stay here I have heard of few criminals, and not one for an atrocious crime. This, I understand is peculiar to Russia, and may be accounted for from the suppression of sanguinary punishments; and likewise to the strict police adopted throughout the empire. The establishment of police officers over all parts of the country, and their continual correspondence with each other, make it extremely difficult even for a debtor to abscond from his creditors. A criminal is always apprehended.” All travellers have consented to the fact of crimes not being near so frequent, since the passing of Elizabeth’s edict, as before. Although the celebrated Mr. Coxe disapproves of the generally received impression, that the Russian code is a politic one, and advocates the necessity of the punishment of death, yet he no where denies that crimes have diminished.

§ Mr. Howard had certainly acquired, in Holland, more experience and information, to prove the inefficacy of severity in punishments, than in any other country; for “ it appears to have been his great school, to which he was never wearied in returning.” His works not only shew that heinous crimes are very seldom committed, but that even trifling offences are not near so common, as might be expected from a country of its population.

the generality of crimes being punished by hard labour in the rasp, spinning and other houses of correction, and also to the reformation of criminals effected by the excellent discipline observed in them?

Doctor Rush mentions a remarkable proof of the impropriety of the punishment of death. "The duke of Tuscany," says he, "soon after the publication of the marquis of Beccaria's excellent treatise on this subject, abolished death as a punishment for murder. A gentleman, who resided five years at Pisa, informed him, that only five murders had been perpetrated in his dominions in twenty years. The same gentleman added, that after his residence in Tuscany he spent three months in Rome, where death is still the punishment for murder. During this short period, there were sixty murders committed in the precincts of that city. It is remarkable (continues the Doctor) that the manners, principles and religion of the inhabitants of Tuscany and Rome are exactly the same. The abolition of death alone for murder produced this difference in the moral characters of the two nations." This circumstance I merely insert in order to have an opportunity of corroborating it. On conversing with an English gentleman brought up at Leghorn, who had a very general knowledge of the government and laws of the several states in Italy, I learnt that the organization of the new code of laws, by the late grand duke Leopold, has not only given rise to considerable improvements in the prisons at Florence, but rendered offences very rare in that and

other cities in the dukedom, when compared with Rome, Genoa, Turin or Venice.\*

As a further proof of the little tendency which severe laws have in suppressing vice and immorality, and in fact of their injurious effects, let us only turn our eyes towards a government in the eastern hemisphere, who have long ranked one of the foremost as advocates for severity. What have been the consequences of a sanguinary system in that country? Has it been found from experience that the morals of the vicious class of people have amended at all? Have the ill-judged measures, I ask, of so many of her parliaments, in extending death to trivial offences and contempts of the laws operated in the least to prevent them?—No, for the rights of the industrious and peaceable proportion of the community, are no where so frequently interrupted by the indolent or desperate as in England. Although the security of their persons and property may perhaps be *partially* accomplished by dragging some offenders to justice, still when they reflect on such an unnecessary sacrifice of their fellow subjects, they cannot but lament that a better remedy should be unprovided. But how dreadful the consideration when they perceive the statute book al-

\* If any credit can be given to the authorities of well informed travellers, the fact of the wholesome effects proceeding from a change of the penal laws of Tuscany, seems to be sufficiently established. The intelligent Dr. Moore, speaks highly of it in his travels, and no one with more precision to persuade than General Lee in his memoirs. "In short," says the latter, after dwelling on its policy, "Tuscany from being a theatre of the greatest crimes and villainies of every species, is become the safest and best ordered state of Europe." Those who wish other and conclusive proof, have simply to refer to the edict of the Grand Duke himself, wherein are expressed in the preamble, and in strong terms of conviction, his reasons and motives for continuing a mitigation of punishments, which he declares to be founded entirely upon his *own experience of its utility*.

ready swelled to a bulk unknown in modern history, and the list of capital offences increased at every session of their legislature, by new transgressions made felony without benefit of clergy. And these at this moment amount to upwards of two hundred.

Need more be said to corroborate the foregoing, let us simply take a view of the American world. To repeat that crimes are less frequent in this country at this period than they were several years ago, and owing entirely to the late legislative regulations, is unnecessary, as may be perceived from a view of the already referred to tables, and from being within the observation of every inhabitant; and to say that in no part of the known world are offences so seldom committed as in Pennsylvania, in proportion to its census of inhabitants, will be granted by all strangers and foreigners. At the last court of sessions for the county of Philadelphia, there was not one third of the number of criminals I have generally observed on the Charleston docket. This is a great disproportion for a place in which there is a continual conflux of strangers, and a county containing more than double the number of inhabitants of Charleston district. Your late September calendar of delinquents was enormous. Fifty-six indictments to be given out at one court for assaults and batteries, eighty for beating constables, besides the long list of felonies and larcenies reported by the judges to the Governor, cannot avoid impressing the minds of the people in Pennsylvania, with a horrid idea either of your laws or police. The fault must exist in one of them, and from the knowledge and experience I have been able to collect, would rather attribute it to a defect in your penal code than to a bad police. Until you eradicate from it the penalty of

death, for such a variety of petty offences, your laws will not be enforced, and the magistracy of them less respected.

In Massachusetts, where for petty offences the punishment of death has been changed for constant and hard labour at the nail factory on Castle Island, they are not so common as in other states where they adhere to the old system. And in Connecticut, crimes are not very frequently committed, probably owing to the dreadful idea which persons have of being sent to the mines and works at Simsbury.\*

Having now collected, from a few references to the effects produced by sanguinary codes of laws in different countries, that they have always derogated from the morals of their inhabitants, let us endeavour to ascertain why severe punishments thus held up by a government, should be less successful in preventing crimes, than those which are mild and moderate. This there can be no difficulty in doing, if we examine into the principles which generally deter a worthless individual of society, from transgressing the rights of another. The most forcible which governs him at this time will be allowed to be the *dread* of punishment, not from a divine hand (for a person who so far deviates from the paths of rectitude, as to contemplate an act of injustice, thinks little of a punishment so remote as not to take place in this life) but from the laws of that community, of which he is a member. That dread however does not arise from any cruelty or other severity of which a penalty may be compounded, but from a certainty of its

\* Vide Massachusetts Magazine for 1792.

being inflicted, for, "it is the nature of mankind to be terrified at the approach of the smallest inevitable evil, whilst hope the best gift of heaven hath the power of dispelling the apprehension of a greater." So that when a law is severe, the execution of it is not so certain as if it were a mild one. It is indeed an undeniable position, that if severity blended with a *certainly* of punishment, were the inevitable consequences of a violation of the laws, offences would seldom be perpetrated. But this can rarely happen, from a principle of humanity inherent in the breasts of most persons, which unavoidably directs them to submit to an injury, in preference to enforcing a rigorous law. Man being a compassionate being, will not feel so disposed to appeal to his country for justice, when he is persuaded it can be obtained on no other terms than a forfeiture of life. He cannot reconcile to himself the idea of taking so active a part against the dictates of his reason and conscience; and will thus, from a forbearance of prosecution, impliedly encourage transgressions which his judgment disowns, merely on account of the unreasonableness of their penalties. From this gulph of error has arisen a rock, upon which so many nations have divided or destroyed their happiness, and are still strangers to the melancholy cause. Little did they expect, that while they paid no respect to *proportioning* the punishment to the crime, that the disposition to prosecute would become the more cold and indifferent in the injured, and the rights of individuals more opened to invasion from the feeble operation of the arm of justice. Less did they foresee that the hardened criminal, thus taught to regard the extreme severity of the punishment to every offence, as a fresh motive for exciting the compassion of the humane, would

with little hesitation commence his depredations anew on society, and finally trample with greater safety on those very laws founded on a system, which a mistaken policy had devised as the strongest bulwark. Whereas if punishments were mild, moderate, and proportional to the damage incurred, the humane would not be so generally deterred from prosecuting. But as long as a penalty is beyond measure, and evidently carries with it traces of disproportion and injustice, informations will not be so frequent—juries will hesitate to convict without recommending to mercy—judges to condemn—and consequently the very intent of laws defeated, by these repeated examples of exemption.

The uncertainty of punishment, then, is the principal danger which nations have to fear. That excellent observation of Montesquieu's, "*La cause des tous les relâchemens vient de l'impunité des crimes, & non de la moderation des peines*" alone ought to increase our caution in not admitting it amongst us—an observation that has acquired at this period, it is hoped, all the strength of an incontrovertible principle. An host of philosophers have already acknowledged its reasonableness in theory, and different ages and nations seem to have crowded as it were, to fix it immoveably on the broad basis of experience. For what occasioned the number of crimes and insolvent debtors at Rome, under the severity of the twelve tables, but the flattering hopes and examples of impunity? \* What moulded the minds of

\* An historian speaking of the liberty given to creditors to dismember the body of a debtor, observes, that "the advocates for this savage law insisted, that it must strongly operate in deterring idleness and fraud from contracting debts, which they were unable to discharge, but experience would dissipate this salutary terror by proving, that no creditor could be found to exact this unprofitable penalty of life or

the Romans for near three centuries afterwards, to a state of virtue and happiness, scarcely equalled since in the annals of history? Was it not the certainty of punishments and mildness of their laws? Why again are crimes now less common in Tuscany than in other states of Italy, unless from the number of *sanctuaries* and “the ease with which pardons are obtained”† in the latter, and the total abolition of them in the former? To the foregoing may be added, that in Russia, where offences are rare, the *certainty* of punishment is great;‡ while in no country is the impunity of criminals so trifling as in Pennsylvania,§ or so notorious as in England.||

“limb. As the manners of Rome were insensibly polished, the criminal code of the Decemvirs was abolished by the humanity of accusers, witnesses and judges, and *impunity* became the consequence of *immoderate rigour*.” Gibb. Hist. rise and fall Rom. Em. 8 vol. page 93.

† Moore’s Travels, vol. 4.

‡ “Crimes I perceive (says a foreigner) do not go unpunished here as in other parts of Europe I have visited. Pardons are seldom or never heard of. A valet de chambre of an Italian Ambassador having committed an offence last week, by wounding a Russian (but not without some provocation) it was not till after an uncommon exertion of the Ambassador’s interest at court, that a remission of such part of the sentence condemning him to the mines was granted. He notwithstanding had his nostrils slit, and was immediately ordered out of the Empress’s Dominions.” Continued from the first part of third note, page 70, marked with inverted commas.

Mr. Coxe offers us one of the best proofs of the certainty of the laws being enforced, when he gives us to understand in the answer of the Empress to his seventh query, “that criminals never receive a mitigation of their sentences, unless upon a general or particular amnesty.”

§ Formerly the acquittals formed full one half of the persons tried—Now they scarcely exceed an eighth part.

|| From the tables in Howard’s *State of Prisons* we learn, that at the different assizes within the Oxford circuit, for seven years, from 1764, 690 persons were tried, and 615 acquitted; besides 293 discharged by proclamation. Within the home circuit from 1764 to 1770 inclusive, 159 burnt in the hand, 96 whipped, and 386 acquitted. In the Norfolk circuit, from 1750 to 1772, 434 condemned to death, and only 117 executed. In the same space of time for the Midland circuit, 518 con-

On another ground permit me to pursue this subject. A principal object of punishment, it has been said, is to hold out an example to society, in order to deter others from offending. The taking the life now of an unfortunate wretch is not such an example, as would prevent a depraved individual from launching into the same vicious course of life, and no person can doubt this who was ever present at an execution. The trifling share of pain a convict is sensible of, and the ease which attends his departure from mortality, is an exhibition not calculated to create more than a temporary degree of awe in a surrounding multitude, and productive of effects too sudden and violent to leave any durable impressions on their minds. When these impressions again are apt to create in the breast of a spectator, any other emotions than those of terror and detestation of the sufferer's offence, the consequences are still more prejudicial. How often, nevertheless, do we experience sensations the very opposite of these? Is there scarcely an execution, which does not either prompt us to an admiration of the criminal's intrepidity, or excite our compassion for his distress; and thus, by affording a scene of virtue and sensibility, render us forgetful of the crime which gave birth to it? Above all, how many men are there, who look upon the ceremony of a scaffold procession with all the indignation imaginable! For myself I can avow, that, on this occasion, the following train of reasoning forces itself upon my mind. What means this tumult, that disorders in this manner the peace and happiness of society? What this combination of thousands—this waging war against an helpless individual?

demned to death, and 116 executed. And at the Old Bailey, London, from 1749 to 1771 inclusive, 1121 sentenced to die, and 678 executed.

Does the existence of one poor delinquent endanger the security of a government or nation? If so, alas, my country, how art thou fallen! Weak in condition, indeed! Where is thy *boasted strength and energy*, those expressions the infant lips of thy citizens have so often uttered, and to which we would all attend with the sweetest rapture? If deprived of it, is it still necessary, that thou shouldst in this solemn and open manner, proclaim thy inability to protect and defend thyself? *He has committed a crime*, I might be answered; *the people must feel the sovereignty of the government and laws*. And can they not accomplish this, except by the perpetration of a crime? Because they have aggregately sustained, perhaps not much more than a trifling inconvenience, are they, on this account, to seek a positive injury, by the loss and murder of a fellow creature? Must private revenge be abhorred, and a public example of it considered as a just and proper spectacle for a populace? Oh Justice! Virtue! Why do men persist in misconstruing your divine excellencies? When will they learn, that to reverence a right we all claim from nature, is the only policy which can combine with public tranquillity, the security of individual comfort. I could not deliberately, and in perfect possession of my reasoning faculties, take the life of an individual, for robbing me of a few shillings. Morality rises in stern opposition to it—the adviser, which my Maker has mercifully placed in my bosom, threatens judgment on my future happiness, were I even to harbour a doubt respecting it: what, then, must I think of the community who can do such an act? Ought they not to be pronounced as *barbarously* vindictive? The action which is in itself immoral, cannot become less so in receiving the solemn sanction of a

nation ; and to detect public vices, we need only keep in remembrance that nations are but powerful individuals, and equally required with them to be just and humane. These reflections, my friend, dwell with weight on my mind, and, I believe, equally influence the minds of others. Or whence the reason, that the office of jack-ketch, who innocently executes his country's decrees, is held in universal and degrading contempt ? Why that general readiness to sign a petition for a convict's pardon ? It is because men conscientiously disapprove of, and think with horror on these repeated examples of barbarity and injustice.

Crimes may be called disorders of a state, perpetrators of them the parts affected, and legislatures the prescribing physicians. How surprising, that no other remedy should be applied to eradicate the complaint than an *amputation* of the infected limb ! This is surely not congenial with the practice of the *regular-bred* gentlemen of the faculty ; for we find that, in a *bodily* wound or disease, this operation is never resorted to, except in a case of the utmost necessity, and until all other efforts to prevent its contaminating or injuring the whole system have been rendered abortive. For a legislature then to doom to destruction a criminal, without making *one* single exertion to restore him to a just performance of his duties as an individual of society, must appear as preposterous, ridiculous and cruel, as to deprive the human body of one of its members, merely because *that* member is the seat of complaint. And yet we repeatedly hear this public conduct justified by some men, on the principle that criminals *cannot* be reformed, or in words more emphatic to convey their ideas, *that most diseases cannot be*

cured. The closer this position is examined, the stronger must we reprobate it, as not only irrational and pernicious, but extremely weak in its foundation. I recollected the other day an observation of our American Æsculapius,\* at the conclusion of a course of lectures to his medical students, that all diseases, not including those from accidental or other sudden wounds, might be cured, were it not for the interposition of three causes; and the most important of them, he urged, was the neglect or unskilfulness of the physician. The observation now strikes me, as being clearly applicable to public or moral disorders; for if we only trace the source of all corruption and derangement of the social system, we shall perceive that it originates,

\* Dr. Rush. This name is applied to the Doctor, from the skill and eminence to which he has arrived in his profession, and from the circumstance of his reviving a system of medicine, founded on principles reasonable, and at once clear to the mind that will unfetter itself of prejudice. It is not however the doctrine with reason on its side, that will always and at first make many profelytes; for, notwithstanding the enlightened era in which we live, the reverse is daily experienced. Any digression from a long trodden path, however it might have in view the interest and convenience of mankind, by simplifying or throwing light upon a science, seldom fails at the same time to rouse either the short-lived energy of bitter malevolence, or, what is more provoking, the contemptible opposition of consummate ignorance. So has it been with this respectable character—a character whose services may be known by simply calling to mind the fall of 1793. When the capital of his country lay nearly desolated by the unrelenting fury of a pestilence, he scorned to deny his assistance to the helpless, and fly to the asylum his independence might have procured him. At once determined to combat an hydra, unknown in his former practice, his fertile genius no sooner furnished him with weapons of defence, than his intrepidity to the impending danger insured a victory, so far as to have weakened the rapacity of the monster. From a dear bought experience, and paid for nearly at the price of his useful life, he had an opportunity to bring forward principles in the healing art—these principles he has since advanced as just, from the clearest theoretical reasoning, and borne up by the strongest evidences of a successful practice. And still there are opponents of this philosopher as well as physician, who have dared to ascribe to his *visionary* imagination, what can only be imputed to a defect in their intellects, or perversion of their hearts. Fortunately, those of the latter class enjoy not the potency of Jove, or we might, ere this period, have seen a Rush prostrately sharing the fate of the *Restorer* of Hippolytus.

like most simple diseases, not from any sudden wound or contusion, but from a trifling affection, sprung into existence from the neglect of a criminal, and daily matured by the still greater neglect or ignorance of governments. The most enlightened state physicians have not yet been able to preserve, in this respect, a perfect national health. No wonder, when they have been so long and erroneously taught to despair, in every case of mental depravity.

The conduct, again, of those legislatures, who indiscriminately inflict the punishment of death for so many *different* offences, must, upon the least reflection, appear consonant to no principle of reason, and, on deliberation, will be discovered to be a direct infringement on the privileges of mankind. It needs no demonstration to prove, that the heinous offence of murdering a fellow creature must imprint on the mind a much stronger sense of resentment, than the petty offence of stealing a yard of cloth. The former pictures to the imagination the baseness of the human heart in its deepest dye, and naturally implants in the mind an eagerness to punish severely the perpetrator, while the latter will simply call forth a sentiment of sorrow for the frailties of a brother member, which might have been checked perhaps in their operations, had the guardians of his juvenile moments instilled into his mind, when tender, the precepts of moral justice. Upon what principle, then, can the same punishment for these two offences be justified? Upon what ground of equity is it supported? Is not the general practice of it a direct implication, that there is no distinction between murder and theft? And as there does exist a difference, is it not absurd in the extreme,

may impolitic, to force upon men a belief to the contrary? Why then do nations continue bigoted in favour of a practice so detrimental to public happiness, and which long experience has declared as answering the worst of purposes? Monstrous iniquity! Age of contradictions! How much is it to be lamented, that, in an era of civilization, so palpable an inconsistency should exist. The mariner would be deemed a novice, were he to set an equal press of sail in fresh and in moderate breezes; the physician a quack, to prescribe the same remedy for different diseases; the lawyer a pretended professor, for commencing the same action for every injury; and yet the legislatures of most countries (including those of several of our states) who inflict the penalty of death for murders, burglaries, petty thefts, &c. without distinction, are held up as composed of men selected for their wisdom, humanity and justice. And in what instances have they discovered these attributes? Their knowledge surely cannot consist in imitating a system, begotten in tyranny, and sanctioned by error and custom: their love of the human race is not evidenced by the numerous victims to their laws: and their justice, I hope, will not be said to exist in such an usurpation of power over the life of an individual.

Independent, then, of the ill policy of capital punishments, proved by the disadvantages accruing to communities since the introduction of them, they ought not to be permitted in a free government, inasmuch as it is an encroachment, as just observed, on the rights of individuals. It may seem strange, that the power of a legislature, appointed by the nation at large, and who are said to speak the will of the people, should be questioned, and that laws passed by them should be deemed unjust: such nevertheless is the case.

The idea so generally accepted, that a society can enact any laws whatever, for their regulation and benefit, will, upon being viewed strictly, turn out an erroneous one. Although the sovereignty of a country may exercise all the authority vested in them, by the common consent of the governed, yet it should be recollected, that they can hold no more power than their constituents themselves could possess; and if they make use of any other, it is assumed. To illustrate this: Men originally had the privilege of doing whatever they pleased, without any kind of restraint, which was not forbidden by the laws of nature or laws of God, which we deem their natural liberty. From the numberless inconveniencies under which they laboured, by living without government and laws; from the exposure of some to the depredations of those more strong and cunning than others, they were thus early induced to form themselves into civil society. From a sense of their weaknesses, they were urged to this method of securing to them what they were unable to protect themselves; and for that purpose deemed it necessary, that each member should resign a certain proportion of his natural liberty, in order to enjoy in tranquillity and safety the remainder, called his rational or civil liberty. This portion he threw into the common stock, upon an implied condition, that the whole should protect and defend him from one his superior in strength, and which they are bound to do, until he forfeits his protection by refusing to submit to the will of the whole. The amount of all these portions constituting what we term the sovereign power, and being vested in one or many, as the whole shall think proper, it hence results, that nations cannot succeed to more privileges than those which belonged to the indivi-

duals who compose them, while in a state of nature. How happens it then, that the supreme power of a society can send out of animal existence the transgressor of its decrees? Life is the most transcendent privilege, which man can possibly enjoy. It is the choicest gift of his Creator, and bestowed on him for the express purpose of answering the end of his creation. That life cannot be taken from him, unless by the express permission of more than human authority, deducible from the laws of nature, or if you please, my friend, from those of revelation. Can we collect from either of these laws, that one man has dominion over the life of another?—No—By the law of nature a man may not even kill his enemy; he has only a right over his life in one particular case, and that of an absolute and extreme necessity, as where an attack is made upon him, with an intention to kill, and his own preservation depends on the immediate destruction of his antagonist. But this necessity cannot exist, if we can otherwise disable a man from injuring us, by confining his person.

Nor can any permission revealed to us, authorizing the punishment of death, be said really to exist. Although it is justified by a celebrated writer,\* from the supposed precept delivered to Noah, that “who so sheddeth man’s blood, by man shall his blood be shed:” yet I coincide perfectly with Dr. Rush,† who in his exposition of this sentence, thinks it to be “a *prediction* rather than a *law*.” We well know, that the unjust death or wounding of one person, will be often apt, from different circum-

\* Judge Blackstone.

† Vide “Inquiry into the effects of public punishments upon criminals and upon society.”

stances, such as rousing the indignation or revenge of the relations and friends of the deceased, &c. to produce other bloodshed: and in a belief that it is not a law, I am confirmed beyond doubt, when I advert to another text of scripture more positive, and where we are expressly enjoined an observance of the commandment, "thou shalt not kill." Some perhaps may support the justice of the punishment of death, under the law of retaliation, as an eye for an eye, tooth for a tooth, &c. On this law it is merely necessary to observe, that however expedient Moses might have deemed severity and cruelty for the government of the Jewish nation (for they were of all people the most profligate in principle as well as barbarous in manners, and their leader no less distinguished for his inexorable mandates) still the same policy cannot be said to suit nations, whose manners have been meliorated by time, and the influence of the doctrines of the Prince of Peace. He gave us so many precepts of morality and forbearance, that none can assume the title of his followers, and retain at the same time practice and principles which in his divine mission he so directly forbids.—Another thing, we are all taught to believe, that we have no authority to put a period to our own existence, as being an act contrary to every principle of morality: if so, how can we undertake to deprive another of life, unless in the simple instance, already mentioned, of self defence, the first law of nature.

As a man then has not a power over his own life in his natural state, much less over that of another, and as a society can hold no other authority, than it derives from the men who compose it were entitled to in a state of nature, it is clear that it cannot

put to death any one of its members. But admitting that the power of taking life was vested in a man while in a state of nature, upon what principle is it understood as transferred to the community he entered into? It has been observed that the individuals subscribed their several portions of natural liberty, for the benefit of themselves. It was a prospect of future convenience, a consideration of comfort and happiness, which prompted each of them to enter into the compact of society. In making a sacrifice of what he conceived part of that liberty, it could never be supposed that he intended to include his greatest privilege, that of life, a liberty, the foundation of every other blessing. The portion was resigned in order to secure the remainder, which necessarily implies, that *part* only of the thing is disposed of. But where the whole is conveyed at once, which is his life, how can there exist a remainder? As the original contract then between men to form society was only implied, and a prospect of good, a promise of future comfort, the consideration offered by the compact for each of the individuals portion, it follows, that society is obligated above all, to preserve the existence of its members. So that, take the question in whatever view we will; whether we say, that man in his natural state had no privilege of taking the life of another, except for his immediate defence and preservation; or whether we determine that he had such a privilege, we still can have no hesitation in declaring, that in the first case the punishment of death is *tyrannical*, because the power can be derived from nothing human; and in the second instance, that it is *unjust*, as it cannot be conceived, that man on entering into civil society should renounce so valuable a liberty as life.

The punishment of death thus ascertained to be an encroachment on the rights of the citizen, I would wish to go one step farther than the legislature of Pennsylvania—I should be happy to observe it abolished even in the case of murder: and for this reason. Murder is the highest offence which man can possibly commit; an action which betrays the depravity of the human heart in its blackest garb; a crime directly violating all laws both human and divine, and therefore should be punished with the severest penalty that society can inflict. I will not be said to contradict myself, when I assert, that to take life is by no means sufficiently severe. The principle on which I reprobate the punishment of death is, that it is impolitic and unjust; that it is too sanguinary, and exceeding in proportion the injury proceeding from most offences, but evidently too mild for the crime of cool and deliberate murder. True is it, that it is the highest forfeit which can be made, but never can be considered as the most painful. What punishment you will ask instead of death can be substituted for so horrid a crime as murder? The answer is obvious: such an one as is of longer duration, and calculated to make *repeated* rather than *violent* impressions; and which once witnessed, thought of, or described, would always preserve in a person's mind a recollection or idea of the sufferer's situation. This might be effected without infringing the laws of humanity, by a punishment for life, compounded of equal proportions of hard labour, and solitary confinement, in a dungeon or cell of the description I have given you. The murderer is no sooner placed in one of these cells, than he finds himself in the most dreary abode the human mind can conceive. Admitted as little as possible to the sight of his own species;

sojourner amidst, yet a stranger to all the beauties of variegated nature, his eyes are gratified by the countenances of none of his fellow creatures, excepting of his keeper, and perhaps a stranger, whom curiosity might now and then direct to a view of his lonesome habitation: indulged by no prospect of the glorious sun vivifying by his benign influence every part of animated creation, and tinging in his brightened course the ethereal mansions; none of the illumined planets, pursuing with regularity through the spotted firmament, their destined revolutions. Deaf to all the sounds which delight the ear, the tuneful notes of the feathered songsters can gain no admittance into his lonely cell. He hears scarcely a sound, unless the majestic *ordnance of heaven*, or the daily grating of iron bolts and doors. These, with the additional consideration of want of every comfort, render his condition truly miserable. But even all this might be tolerably supported, had he not to encounter an enemy too formidable to subdue, and from which there is no retreating. Harassed by the weapons of self-torment; his soul pierced by the keen shafts of conscious guilt; he attempts but in vain to seek shelter in thought, for there he finds no asylum. Daily swallowing thus the bitter draught of remorse and wretchedness, his wearied frame enjoys but a short respite, even should sleep take possession of his limbs; for his mind's rest is at times disturbed by the spectres attendant on an unhappy conscience, presenting themselves in all the hideous forms, torture of thought can suggest: and when he awakes, 'tis only to behold in imagination, the angry appearance of offended majesty. What situation can be more painful! What punishment more proper for a murderer! Why it is not inflicted by the legislature of this state, I am at a loss to account

for, unless they have imbibed that common received opinion, founded on the Levitical law, that life is the only equivalent for life.

The criminal laws of Pennsylvania, have nevertheless approached in the nearest degree to perfection, by abolishing the punishment of death for every other crime; and when we contrast them with those of other nations, with what admiration do we behold them. For instance: the three objects of penal laws, or the ends for which punishments are designed, are the *amendment* of the criminal—the *reparation* to the injured society or individual—and a *prevention* of the same offence, by an *example* of the offender. Let us endeavour to discover, how far the laws of Great Britain, imitated by a great portion of our states, accomplish these objects.

Murder, robbery, burglary, forgery, horse-stealing, and above two hundred other felonies, likewise stealing a second time above the value of twelve-pence, are punished with death. This puts reformation out of the question, as the convict is deprived of life. The reparation to the injured community is none at all, or at any event very trifling, excepting the *body* of a malefactor, in the single case of murder, can be deemed a satisfaction. The example is not worth mentioning, as affording a scene of barbarity and injustice, often exciting the indignation, but seldom the fear of individuals.

Receiving stolen goods, perjury, libelling, using false weights and measures, or petty thefts under the value of twelve-pence, are respectively punished with disgraceful punishments, such as standing in the pillory, burning in the hand and public whip.

ping, which are still farther from answering any good end. Restitution by either of these methods is equally unattainable, for the government are at every expense of supporting persons guilty of the offences, while in confinement, trying them, and inflicting the punishment; and no sooner do they stand their time in the pillory, are burnt in the hand, or receive the appointed number of stripes, than they are once more let loose upon the community. As for reformation, they are evidently worse than before: for besides their feelings being hardened, and often utterly destroyed, from having such a stigma fixed on them (for the reasons given in the former part of this letter) they have at the same time acquired, while in jail, a habit of indolence (not to mention numerous other vices) which they afterwards find a difficulty in divesting themselves of. The example is little better than the rest, for what rogue would hesitate to offend, when he knew, that the only risk ran was either of these punishments.

By the laws now of this country, all the ends of punishment are answered. The *restitution* to injured society is produced by the personal industry, labour and services of the convict. The *reformation* is naturally effected, from living a regular, sober, and moral life during his confinement in prison—from being long initiated into constant habits of industry, in following a trade or occupation; while the certainty of the laws being enforced, by the offender's being brought to justice, from no interference of an idea of the unjust measure of the punishment, will always operate as a sufficient *example*, and thereby prove a more ample security to the rights of individuals. And even were these

three grand objects defeated (which on the contrary are daily effected) there is still left a pleasant reflection, that without having recourse to cruelty, the criminal is at any rate prevented from harassing the community.

By the laws of England enforced in other states, a variety of transgressions, widely different from each other in their degrees of criminality, fall indiscriminately under one title or crime, and attended with the same punishment. Instance those included under the general definition of murder. In this country, it is confined to any kind of wilful, deliberate and premeditated killing, or to killing occasioned in the perpetration, or attempt to perpetrate, either rape, arson, burglary or robbery. All other murders are of the second degree.

An important defect in most criminal codes, which does not exist in Pennsylvania, arises from the permission at times of a trifling concurrence of circumstances, and indeed of a single one, as evidence for crimes the most heinous and uncommon. By a statute of James the first, the concealment of the death of a bastard child is made *conclusive* testimony of its being murdered by the mother: a more absurd conclusion can scarcely be drawn; and still it has been blindly sanctioned in several American states. Legislators are surely determined to presume against human nature in every instance, and swallow with the greatest avidity the belief of a crime the most unnatural to perpetrate: else why should this constrained presumption hold good. Ought the act of concealing the death of an infant which was born alive—or rather the errors of frail nature—often perhaps the fruit of cruelly betrayed love, and

which divulged would only expose a female to the general contempt of society—ought this act, I ask, offer to the mind the least ground of suspicion, that the parent had murdered the infant? No—we should rather conclude, that it was the sense of shame so powerfully predominant in a female breast, that prompted her to the step of secrecy; a step equally dictated by prudence, necessity, and nature. No wonder, my friend, that we should hear of a female even applying to the horrid resource of murdering an infant, whose life is of little value, when the arrows of public infamy are in all instances darted without distinction, and without recollecting, that while they may measure justice to the abandoned prostitute, they fail not to pierce at times the most virtuous bosom. Shame to the sentiment, which involves, in the vortex of vice, every obedience to a natural impulse, not immediately clothed with the garb and sanction of matrimony! *Want of virtue* is one thing—*want of insight* into the base protestations and artifices of a seducer, a very different one. Let this false step in a woman, however, bear even a deeper tint than the latter; let it be called *imprudence*; it may incline her, it is true, to her own prejudice, so far as to incur the contempt of many around her; but how can she fall under the censure of her own or any generous mind, when supported by a consciousness, that it was the want of her *lover's* virtue, not her own, that wrested from her a public esteem she had not deservedly forfeited?

But notwithstanding we must applaud the example of Pennsylvania, in requiring *probable presumptive proof of the fact*, before the *constrained presumption*, that the child whose death is concealed was therefore murdered by its mother, should be sufficient to con-

vist the party indicted; yet, what were her motives for adopting the mistaken policy of a sister state,\* and making the concealment of a bastard's death a punishable offence, I have not been able to discover. It has been established, that "every punishment which is not absolutely necessary for the prevention of crimes, is a cruel and tyrannical act;" so, on the same principle, the necessity of making any defined action a crime, ought only to arise from that act having already proved a source, or likely to occasion an injury to the community or an individual. To make then this step of a parent, a crime, punishable by hard labour, fine or imprisonment, is highly unnecessary and unjust. If its consequences at all affect the community, they are rather beneficial than otherwise; for a woman, by withholding her errors from the public mind, is happily preserved from various acts of despair, to which her own distress, and the strong current of popular infamy must eventually have driven her.

The measure of punishment being fixed by a discretionary power, vested in the judges of the court, is another peculiar trait in the justice of the Pennsylvanian code, and which you will readily pronounce so, if you advert for a moment to the impracticability of otherwise proportioning the punishment to the crime. For instance, suppose the punishment for manslaughter, or for murder of the second degree, were defined to be six years solitary confinement, and twelve years hard labour. A man may be guilty of one of these crimes, but with a variety of favourable incidents appearing on the trial, such as *the first or aggravating provocation of the deceased; his death occasioned by a blow, given upon sudden or violent passion, &c.* Al-

\* New Hampshire.

though a jury, in this case, may be well persuaded, that the offence is in some measure criminal, yet they will acquit entirely, or recommend to mercy, rather than expose a citizen to a punishment beyond measure. So, if a petty theft were to be punished with six months hard labour, it is evident that it would not be adequate for an old and troublesome offender. It has long been a subject of deep concern to every humane mind, that in most countries the measure of punishment has in some cases grossly exceeded, and in others by no means equalled, the grade of the offender's guilt. Too often has a man, convicted of an high degree of man-killing, for want of a few legal requisites to bring the crime within the definition of a murder, escaped with a verdict of manslaughter or a trifling finge on the hand, while one perhaps of superior feelings, from an improper method of supplying his immediate wants, renounces his life. Oftener is the convict, from the kind interposition of mercy in extricating him from the talons of injustice, induced to believe the *propriety* of impunity, when, in fact, it was only the conflict occasioned by the little sway justice had, which favoured him with an escape. Whereas here nothing of the kind can exist. The judges sentence according to the circumstances under which the crime is committed; in doing which, they take into consideration the opportunity for vice offered at the time—the place, age, education, and general good or bad conduct of the delinquent through life—the passion which governed him—and in proportion to these, and a variety of other aggravating and extenuating circumstances, shorten or protract the term of labour or confinement: so that no instance is likely to happen, of an offender in the custody of the laws escaping a merited punishment.

By these means justice will be impartially administered, and no penalty imposed disproportionate to the offence, unless the power should be abused by the judges. There can be little probability of this taking place, when men selected for their judgment, character and integrity are generally called to those stations. And even were it to happen, the mercy of the executive is always ready to rescue a citizen from oppression. The pardoning power, however, is seldom or never exerted in any other instance, which brings to my recollection a preface of Beccaria's, "*happy the country in which it would be considered as dangerous!*" Pennsylvania, then, is that country. Scarcely a single instance has occurred, since the establishment of the new penal system, of a criminal's sentence being wholly remitted: many convicts, it is true, receive a mitigation of their punishment, after being reformed; yet, till that amendment takes place, they are made to suffer all the rigour of their sentences. Nor can any counterfeited reformation of a prisoner procure the pardon of the governor. The inspectors, jailer and keepers must have gradually observed its progress, and even under the most favourable circumstances, they never think of interfering for his release, unless he has completed the greatest proportion of his term of labour and confinement.

It would notwithstanding be more desirable to annihilate all hopes of remission, after a conviction has once taken place. Executive clemency in any shape can only be necessary in those parts of the world, where laws are unjust, and punishments cruel and severe; and then, like all other defects in the system with which it is engrafted, it solemnly publishes the uncertainty of the laws, silently disarms

of their sovereignty, and by extending an act of humanity to a single individual, assists in throwing down a fabric of public protection, long enervated and tottering with other continued shocks of impunity. But in a country where punishments are moderate, and measured with the guilt of criminals; whose legislation beams with justice and benevolence, the prerogative of pardons becomes highly pernicious, if exercised. It is then the duty of a chief magistrate to be deaf to every entreaty of mercy, and to learn, that with a rational and mild jurisprudence, the rigorous execution of the laws is the only virtue, which can add to his private dignity a public testimony of attachment to the lives and property of his fellow citizens.

Thus have I endeavoured, my dear Sir, in the foregoing pages, to fulfil the object I proposed. I have, in the first place, furnished you with as correct an account as lay in my power, of the alteration of the penal laws of Pennsylvania—the causes which produced it—and the salutary consequences resulting from it, in effecting as well the wise and humane regulations in the *Philadelphia Prison*, as the diminution of offences throughout Pennsylvania.

Secondly. I have been led to consider, among the disadvantages flowing in different ages, from sanguinary codes of laws, that they have a tendency to increase rather than prevent crimes; and brought in support of it the experience, first of the ancient Romans, then of modern European nations, and lastly of our own country.

Thirdly. I have ascertained, why severe punishments, thus threatened and held up by a government, are less successful in preventing crimes, than mild and moderate penalties; owing to the certainty of their execution being more precarious, from the humanity of prosecutors, the compassion of juries, judges, &c.

Fourthly. I have thrown together a few other observations on the impolicy of the punishment of death, from its affording an example, calculated from its barbarity and injustice, to excite rather the indignation than terror of individuals; and from thence slightly touched on the absurd and inconsistent conduct of legislatures, and particularly in their applying the same remedy or punishment in all cases whatsoever.

Fifthly. I have advanced, that the punishment of death is tyrannical, inasmuch as no society can hold a power over the life of one of its members, when the rights of society are derived from those of nature, and this right not existing in a state of nature, even over our own lives. And admitting that every man had a power over his own life, that the preservation of his existence, above all others, was the principal inducement to his entering into civil society.

Sixthly. I have expressed a wish, that the taking of life may even be abolished for murder; and proposed a punishment more proper for the offence.

And lastly. I have, in taking a view of the criminal laws of other countries, further demonstrated

the superiority of the Pennsylvanian code ; a code, raised upon the fundamental principles of reason and equity, and which, for the beauty and symmetry of its parts, must ever command the admiration of the world. How gratifying a circumstance must it appear to the tender and humane of every description, that an example is at length given to long deluded mankind, embracing in one view so many noble objects. When we observe too, that it is the Emporium of Northern America, in which the corner-stone of so grand a superstructure has been laid, what pleasure must it not afford every friend of freedom ! The despotic soil of Italy gave birth to the projector of the plan, a humane Beccaria : England, it is true, brought forth a Howard : but it is the clime of Pennsylvania, which can exult in the greatest number of proselytes to those ornaments to philanthropy.—Yes, it is the public spirit and perseverance of Pennsylvania's sons, which alone seem to call the attention of the world to the practice of their glorious principles. Nor is this the only instance, in which they have displayed themselves in all the excellence of unexampled virtue. Their exertions have been no less indefatigable, in preparing an asylum for the poor and helpless of all classes, and in their foundation and support of charitable institutions, unequalled perhaps in the world. Here the sorrows of decrepid age are soothed by the speedy relief of a comfortable abode ; the needy orphan and widow no longer want a parent or protector ; and no more are heard the distressing ravings of the unhappy maniac, to pierce the ears of human kind. In fine, it appears, that the geni of reason and true philosophy have, after a long and tedious flight o'er the regions of the earth, at length

lighted upon this spot as their residence ; where, by coalescing with the genius of humanity, they might be better enabled to lay down principles for the future regulation of mankind, and extend their influence to the utmost bounds of the habitable globe.

With every sentiment of esteem and affection,

Believe me,

My dear Sir,

Your sincere Friend.

R. J. T.

## A P P E N D I X.

*The following Letter appeared in the City Gazette of Charleston on the 27th February last, shortly after the foregoing Letter was published.*

Messieurs FRENEAU & PAINE,

WITH many of your readers, I participated in the pleasure naturally excited by the account, published in your paper, of the wise and humane regulations adopted in the Philadelphia prison, and the abolition of cruel, sanguinary and disproportionate punishments in the state of Pennsylvania. Such a subject is not unworthy of the *juvenile* pen of its author; and the style and manner in which he conveys his sentiments evince a happy combination of virtue and talents.

The beneficent effects which flow from a mild penal code, founded in humanity and wisdom, are perhaps the best argument that can be applied to those who are advocates for the necessity of rigorous and sanguinary punishments. I conceive it to be a true axiom, that the only object of punishment for transgressions of every description, ought to be the prevention of crime, and the reformation of the offender. For, to suppose society actuated by a principle of revenge, would be to attribute to it a passion, which the most depraved individual would blush to acknowledge himself capable of. Yet to take a view of penal laws in general, one would be naturally led to believe, that sanguinary punishments were the effect of the most diabolical revenge, proceeding from the lawless command of an insatiable, sanguinary tyrant.

That the adoption of the penal code of England in this country, did not proceed from a conviction of its excellence, is evident. It was merely the result of chance. And it is matter of much regret, that when this country did form a basis of government for itself, and began a new era of things; that its legislature did not employ itself in digesting a criminal code of laws appropriated to the new principles which it embraced.

In this code there are upwards of two hundred offences, wholly dissimilar in guilt, which are deemed capital, and punished with death. Such an inconsistency is too glaring to pass unnoticed. And the frequent executions in England prove the fallacy and inutility of sanguinary punishments in preventing crimes: as the mild regulations of the Quakers of Pennsylvania prove how much society may be benefited by wise and humane laws.

It might perhaps be attended with much difficulty to form a just scale of punishment, which would apply in all cases, for every denomination of offences; perhaps impossible: but in our penal code there is infinite room for improvement. And the necessity of apportioning, as nearly as possible, the penalty to the offence, that is, to the injury that society sustains, is an object of high importance, and worthy the particular attention of the legislature of South Carolina.

The effect of a wise system of jurisprudence on the morals of society, is probably not so well ascertained as it may be hereafter. Mankind make but slow advances; and the effect of any change is not immediately visible. But finally the result of judicious and humane laws will be to diminish crimes, and facilitate the happiness of the community.

History, both ancient and modern, tells us that in all ages, crimes have increased in proportion to the severity of the penalties enacted to prevent them; and have decreased in an equal proportion, by the amelioration of those penalties. This is what experience teaches. But unfortunately for mankind, the voice of experience has not that influence on their conduct which it ought to have; and to this in a considerable degree they owe their misfortunes.

It is, in a great measure, owing to a mistaken predilection in favour of every custom which can boast of antiquity, that mankind have so long wandered in the inexplicable mazes of ignorance, error, and consequent misfortune; and that they prefer savage and barbarous customs, to those which experience and wisdom would recommend. But notwithstanding this deplorable remissness, seemingly incident to human nature, it is a consolation to the friends of humanity, that there is an apparent proximity towards improvement manifested in every thing. And though the progress of knowledge be slow, it is certain and efficacious, and cannot readily be supplanted after it has taken root.

VOLNEY.

*Letter from the Author to the Editors of the City Gazette of Charleston.*

*Philadelphia, March 25, 1796.*

GENTLEMEN,

THE Gazette you have thought proper to transmit me, containing the publication of my *Observations on the Philadelphia Prison, &c. in a Letter to a Friend*, came to hand last evening; and permit me by this opportunity to thank you for them, as also for your approbation accompanying them. I confess I was not a little surprised to observe the letter communicated to the public.

The occasion of those observations was a visit to that institution, which gratified me so much, that I immediately sat down, and attempted to convey to the mind of one with whom I have long been in habits of intimacy and friendship, the same pleasant impression of its wise and humane administration. While such were my intentions, it had not at any one time occurred to me, that they would have made an appearance in a public print, or I should certainly have not avoided the sending with them such proofs, as might be necessary to establish the salutary effects which have issued from the alteration of the former penal code of Pennsylvania, and from the new arrangements adopted in consequence of it in the prison of this city. This however for another opportunity.

The subject, gentlemen, is certainly of that nature, as by no means to have merited the apathy with which it has heretofore been treated, and especially in American States, whose governments should of all others, proceed with the utmost deliberation towards the organization of laws, which may affect the life of a single citizen. What then would be more interesting, than if men of real talents and influence amongst us, were

to devote a small degree of attention to the pleasing task—no less a one than the preventing the useless effusion of human blood? It is principally from the aid of these characters, that recommendations can command their just weight of respectability. I should be happy to observe them step forward, from the benefits they might entail on posterity.

It is nevertheless a matter of no small consolation to the humane of every description, to observe a work of reformation gaining strength, which *once* matured, must from the experience of this country alone, contribute perhaps to the happiness of millions hereafter. The general assembly of New York, have a few weeks ago abolished the punishment of death, for every crime except murder and treason. That of New Jersey have on the 18th instant suppressed it in *most* cases; and the legislatures of other states seem so far convinced of the importance of the subject, that they have directed inquiry to be made, as to the effects a similar measure would be likely to produce. For my own part, I have not a doubt but what a congeniality of legislative sentiment, in this respect, will soon become general throughout the Union; and indeed feel a satisfaction in believing, that the period is not far distant, when the unprejudiced of all nations, will, with one assent, subscribe to the justice and policy of *mitigation in punishments*.

With a full persuasion that the recommendations of your executive will meet with the approbation of the legislature of South Carolina, and a wish that every *jail-government* in the world, may, like that of the Philadelphia prison, rest on the grand truth of "*vitiorum semina—otium—labore ex—huariendum;*"

Believe me, Gentlemen,

With due Respect,

Messrs. Freneau & Paine, }  
Charleston, S. Carolina. }

Your obedient Servant,

R. J. T.



Extract of a Letter, on the same Subject, dated Feb. 20, 1796, from a respectable Character in London, holding an appointment under the American Government, to Caleb Lowmes, an Inspector of the Prison and one of the earliest Friends to the Reform.

HOW comes on the Philadelphia Penitentiary House? I see the success of your plan highly spoken of in the governor's address to the legislature, which gives me sincere and lively pleasure.—I rejoice to find also, that the attention of Congress has been turned to the subject—that there is a prospect of their penal code being ameliorated, and of the same respect being paid, in the laws of the Union, to the preservation of life and the *prevention* of crimes, as in the laws of individual states. What a reflection is it on the humanity—nay, indeed, on the wisdom and policy of the rulers of states and nations, that so little attention should have been given, and such faint exertions made, to *reform* rather than to *extirpate*—to *reclaim* rather than to *punish*! I most ardently hope, that we may both live to see the day (and that at no distant period) when, by the diffusion of knowledge—the increasing influence of the most liberal philanthropy—but more especially by a true *understanding* and *practice* of genuine unadulterated Christianity, man may learn to love and *do good* to his fellow man—and the *punishment of death* be for ever abolished.

Convinced as I am, that society has *no right* to take away the life of a citizen, I am also persuaded, that the period is rapidly approaching, when governments will think it as *impolitic* as it is wrong, to exercise this assumed power.

# PUNISHMENTS for several HEINOUS OFFENCES, as established by the Laws of PENNSYLVANIA.

CRIMES.	QUALITY OF PUNISHMENT.	QUANTUM OF PUNISHMENT.
Rape, Murder of the 2d Degree— Petit Treason, { Counterfeiting, or uttering counterfeit gold or silver coin—Forging or utter- ing forged Bank Notes, High Treason, { Arson, { Maliciously maiming—vo- luntary manslaughter, Burglary—Robbery—Crimes against nature, { Horrid Stealing . . . . .	A Compound of Hard Labour and Solitary Confinement. Ditto. . . . . Ditto. . . . . Ditto. . . . . Ditto. . . . . Ditto. . . . . Ditto. . . . . Hard Labour, Ditto. . . . .	For any Period not exceeding 21, nor less than 10 Years. Ditto. 18, Ditto. 5 Ditto. 15, Ditto. 4 Ditto. 12, Ditto. 6 Ditto. 12, Ditto. 5 Ditto. 10, Ditto. 2 Ditto. 10, Ditto. 7,

N. B. The Solitary Confinement cannot be less than one-twelfth, nor exceed one half, of the whole Term of Confinement. *Maliciously maiming*, besides Hard Labour and Solitary Confinement, is attended with a Fine, not to exceed 1000 Dollars, three-fourths of which to go to the party grieved.—For *Horrid Stealing* likewise, and *all Larcenies*, there must be a Reparation to the Value of the Thing stolen, and also a Fine to the Commonwealth.

A TABLE of OFFENCES committed in the City and County of Philadelphia, from Jan. 1, 1787, to June, 1791, being a Period of the last 4 Years and 5 Months under the old Criminal System.

PERIODS.	OFFENCES COMMITTED.																	
	Murder.	Burglary.	Robbery.	Forgery.	Counterfeiting.	Horse Stealing.	Bigamy.	Larceny.	1st Deg.	2d Deg.	Misdemeanors.	1st Deg.	2d Deg.	Receiving Stolen Goods.	Defrauding.	Violent Assault to kill.	Harbouring Convicts.	Keeping disorderly Houses.
From Jan. 1st. 1787 to May 1st. 1788,		20	20	5				122	2	6		7				1		3
May 1st. 1788 to May 1st. 1789,		24	5			4		57		4		9	2			5	2	1
May 1st. 1789 to May 1st. 1790,	6	13	10		3	1		82	2	3		3	3		3		3	2
May 1st. 1790 to June 1791	3	20	4		3	5	1	113				7	1					4
Total Number of Offences, 594																		

N. B. Deduct from this Table 12 offences, which ought more properly to be put down to other Counties.

A TABLE of OFFENCES committed in the STATE of PENNSYLVANIA, from June 1791 to Oct. 27, 1795, being a Period of the first 4 Years and 5 Months under the New System of Laws.

PERIODS.		OFFENCES COMMITTED.	
From June 1791 to June 1792,	1	Manlaughter.	
June 1792 to June 1793,	2	Rape.	
June 1793 to June 1794,	1	Arson.	
June 1794, to 27 Oct. 1795,	1	Bigamy.	
	1	Burglary.	
	2	Robbery.	
	7	Forgery.	
	1	Counterfeiting.	
	7	Horse Stealing.	
	42	Larceny.	
	1	1st Deg.	Misdemeanors.
	1	2d Deg.	
	1	1st Deg.	Receiving stolen Goods.
	2	2d Deg.	
	2	Defrauding.	
	2	Keeping disorderly Houses.	
	1	Concealing the Death of a Bastard Child.	
	65		
	61		
	61		
	114		
Total Number of Offences, 301			

N. B. Since the commencement of this period of 4 years and 5 months the convicts from all the different counties in the state have been sent to the prison of Philadelphia. Formerly they were not.

# Remarks on the two foregoing Tables of Crimes.

THESE are tables of crimes and not criminals. There were 484 persons convicted of the foregoing offences, under the law for public and disgraceful treatment—and 245 under the present system (so far only, it must be remembered as March 1795) making in the whole 729—of these 27 only have been again convicted, 15 men and 12 women—and but 5 of the 729 have been convicted a second time for the last four years under the new system, 1 for horse-stealing and four for larcenies; whereas the books of the prison will shew that 184 persons were frequently convicted under the old law; all of whom had been constantly engaged in committing offences against society, and followed no other mode of living, and had frequently broke jail or escaped from their keepers—94 were convicted divers times for committing 249 crimes, and chiefly of the most daring and dangerous nature, being confessedly the most atrocious characters in the country. There were others of equally dangerous characters, who do not appear to have been convicted more than once, but who were well known to have been engaged in the business regularly; of these there were about 80, the remaining 10 do not appear to have been quite so bad. The jail books again prove, that of 594 crimes committed in four years under the old law, 346 were committed by these 184 characters: a number sufficient to disturb any community; and it appears that they were the principal agents in the business—67 broke jail and 37 escaped from their keepers, when at work abroad. Averaging the 94 who were reconvicted twice and oftener, at 3 times will make 282 out of 484, and say 90 others who are known to have been engaged in this work, will give the greater part of the offenders who had so long troubled society.

From these tables alone it appears, that since the late improvements in the penal code, offences have diminished in a proportion of about one half, and when we recollect, that the first table contains the offences of the city and county of Philadelphia only, we may pronounce that they have decreased throughout the whole state nearly two thirds—The two periods are equal, and the latter commences from 1791, from the new discipline not having taken place previous to that time. The most material point gained with respect to offences, is the diminution of the most heinous ones, which are still in a greater proportion. They stand in the tables as follows:

	Under the old System in the City and County.	Under the new System in the whole State.
Burglary . . . . .	77	16*
Robbery . . . . .	39	5
Murder . . . . .	9	0
Arson . . . . .	0	1
Rape . . . . .	0	1
Bigamy . . . . .	1	1
Total	126	24

\* Only 4 of these 16 were committed in the City and County.

*The following Facts early furnished by Mr. Lownes, were omitted by the Author when the Sheets in which they might have been more properly introduced had gone to Press. Thinking them interesting, he has preferred placing them out of Order to withholding them from the Public.*

**A**T the time of the yellow fever in 1793, great difficulty was found in obtaining nurses and attendants for the sick at Butth-hill hospital. Recourse was had to the prison. The request was made, and the apparent danger stated to the convicts. As many offered as were wanted—They continued faithful till the dreadful scene was closed—none of them making a demand for their services till all were discharged.

One man committed for burglary, who had seven years to serve, observed, when the request was made to him, that having offended society he would be happy to render it some services for the injury; and if they could only place a confidence in him, he would go with cheerfulness.—He went—he never left it but once, and then by permission to obtain some articles in the city. His conduct was so remarkable as to engage the attention of the managers, who made him a deputy steward; gave him the charge of the doors, to prevent improper persons from going into the hospital, to preserve order in and about the house, and to see that nothing came to or went from it improperly. He was paid, and after receiving an extra compensation, at his discharge, married one of the nurses. Another man, convicted of a robbery, was taken out for the purpose of attending a horse and cart, to bring such provisions from the vicinity of the city, as were there deposited for the use of the poor, by those who were afraid to come in. He had the sole charge of the cart and conveying the articles, for the whole period. He had many years to serve, and might at any time have departed, with the horse, cart and provisions. He despised, however, such a breach of trust, and returned to the prison. He was soon after pardoned, with the thanks of the inspectors.

Another instance of the good conduct of the prisoners during the sickness, happened among the women. When request was made of them to give up their bedsteads, for the use of the sick at the hospital, they *cheerfully offered* even their bedding, &c. When a similar request was made to the debtors, they *all refused*.

A criminal, one of the desperate gangs, who had so long infested the vicinity of Philadelphia, for several years before the alteration of the system, on being discharged, called upon one of the inspectors, and addressed him in the following manner: Mr. ———— "I have called  
"to return you my thanks, for your kindness to me while under sen-  
"tence, and to perform a duty which I think I owe to society, it be-  
"ing all in my power at this time to afford. You know my conduct  
"and my character have been once had and lost, and therefore whatever  
"I might say would have but little weight was I not now at liberty.  
"Pursue your present plan, you will have neither burglaries nor robberies  
"in this place." He then stated the sentiments held by those characters who had devoted themselves to this mode of life, and the plans generally pursued by them. The certainty of conviction and the execution of the sentence—the *privations*, temperance, order, labour, &c. was more to be dreaded than any thing they had ever experienced.—He observed at parting, that he should never trouble the inspectors more. This promise has been fully complied with.